



HUMAN DIMENSION IMPLEMENTATION MEETING
29 SEPTEMBER to 10 OCTOBER
Warsaw, Poland

ANNOTATED AGENDA

BACKGROUND

The *1992 Helsinki Document* mandates the ODIHR – as the main institution of the human dimension – to organize a meeting to review the implementation of human dimension commitments entered into by all OSCE participating States and to look at ways to enhance compliance with these commitments. The evaluation of the procedures and mechanisms for monitoring should also be subject to this meeting. Based on *Permanent Council Decision No. 476 on the modalities for OSCE Meetings on Human Dimension Issues*, the sessions of the Human Dimension Implementation Meeting (HDIM) have as objectives to review human dimension commitments and to foster the implementation of these commitments.

Since 1998, the HDIM has taken place annually (except for 1999, due to the Istanbul Summit) for a two-week period in Warsaw, bringing together representatives from the participating States' governments, from civil society, as well as from OSCE institutions and structures and other international organizations. In 2007, more than 1000 representatives were registered at the meeting.

The agenda for these meetings is adopted by the Permanent Council, also reflecting three special subjects to be dealt with more in-depth. For the 2008 meeting, the agenda was adopted by Permanent Council Decision No. 860 of 31 July 2008. This annotated agenda is intended to provide participants with guidelines to prepare for active and constructive participation in the working sessions of the meeting.

Information on the modalities for conducting discussions at the HDIM will be provided in the meeting manual and in due course at http://www.osce.org/conferences/hdim_2008.html. Consolidated summaries of previous Meetings, including recommendations from participants, are available at <http://osce.org/odihr/16533.html>. The HDIM factsheet can be accessed at http://osce.org/publications/odihr/2006/09/20658_674_en.pdf. A thematic compilation of human dimension commitments can be found at http://osce.org/odihr/item_11_16237.html. As to the modalities for conducting discussions at the HDIM, information will be provided in the meeting manual and in due course at http://www.osce.org/conferences/hdim_2008.html.

SCHEDULE OF MEETINGS

MONDAY, 29 SEPTEMBER

10:00-13:00

OPENING PLENARY SESSION

Addresses by:

The Director of the ODIHR
The Chairman-in-Office
The Host Government
The Secretary General of the OSCE
The High Commissioner on National Minorities
The Representative on Freedom of the

Media

Keynote speaker/s

15:00-18:00

WORKING SESSION 1

Rule of law I, including:

- Legislative transparency;
- Independence of the judiciary;
- Right to a fair trial;
- Follow-up to the 14–16 May 2008 Human Dimension Seminar on Constitutional Justice.

Legislative transparency

OSCE commitments call for legislative processes to be open and public. In order for laws to be widely accepted by citizens and thus effectively implemented, the law-making process must be open, inclusive and transparent. It must allow for public discussions and include mechanisms for ensuring that the views and input of those directly affected by the law or responsible for its enforcement are taken into consideration. Citizens and civil society groups should be offered opportunities for commenting publicly on proposed legislation. Legislative agendas and timetables should be made public well in advance of the consideration of the proposed legislation, and access to parliamentary proceedings should be subject to reasonable conditions. Full collections of legislation, primary and secondary, currently and formerly in force, should be readily available, and copies of individual instruments should be easily acquired by officials, legal representatives and members of the public.

To this end, participating States should have clearly defined rules concerning the preparation, discussion, adoption and publication of legislation which include provisions for maximum public input and transparency in the law-making process. An open and transparent law-making process is also a safeguard against the imposition of special and hidden interests and may eventually help to ensure better implementation of OSCE human dimension commitments.

Questions that could be addressed:

- What are the main obstacles to implementing OSCE commitments that improve legislative transparency?
- How can participating States ensure that the public has access to the legislative process and public documents? What techniques and instruments can be used to this effect?
- How can public acceptance of legislative proposals be enhanced?
- How can access to legislation be secured? What measures can be taken to ensure the availability of legislation in a timely manner?
- How can the OSCE, its institutions and field operations support the efforts of participating States towards greater transparency of their law-making systems?

Right to a fair trial

The right to be tried fairly in accordance with OSCE commitments is essential to any democratic state governed by the rule of law. Equality of arms between the prosecution and the defence is central to the realisation of fair trials. Another central aspect is bar admission practices and the need to ensure that new lawyers are regularly admitted to the bar through open and transparent procedures. Recurring concerns relate to frequent instances where defence lawyers are penalized for the lawful performance of their duties.

Trial monitoring has proven to be a valuable diagnostic tool to collect and disseminate objective information on the administration of justice in individual cases and to draw conclusions regarding the broader functioning of the justice system and the provision of fair trial. In recent years, achieving compliance with fair trial standards has often been supported by findings and recommendations from trial monitoring programmes run by OSCE field operations or NGOs. In May 2008, the ODIHR launched its Trial Monitoring Reference Manual to promote and facilitate these programmes.

Questions that could be addressed:

- What measures are being taken by the participating States to implement the right to access to a lawyer and the right to be represented by legal counsel after arrest or detention and during all stages of criminal proceedings?
- Is the procedural balance of powers between different actors sufficiently safeguarded? How are participating States ensuring that prosecutorial powers are in check?
- Is the confidentiality of lawyers' files and lawyer-client communication protected adequately under law and in practice? How is this balanced with security concerns?
- How do the participating States ensure transparent merit-based admission to the legal profession?
- What steps are being taken by participating States to ensure reliable and accurate recording of court proceedings?

Independence of the judiciary

An independent judiciary is at the core of a democratic order and the rule of

law. Independence of the judiciary takes on a special importance when courts exercise their powers of judicial review – i.e. scrutinize compliance of legislative and executive acts with the constitutional framework. It falls on the courts to ensure that no-one is above the law and independence is a pre-requisite for performing this function.

Selection and appointment of judges play a great role in ensuring their independence. Judicial appointments should be made on the basis of qualifications and merit, through transparent procedures that exclude nepotism and corruption.

Administration of justice also entails accountability. Increasingly, many participating States are taking measures to ensure judicial integrity and prevent abuses of judicial office. Such measures should not undermine judicial independence. Adequate working conditions and remuneration for performance of judicial duties are essential. Financing of the judiciary should be allocated in a way that ensures its independence, especially from the executive. Due consideration should be given to the role of judicial self-government, as well as to the transparency and due process in the judicial disciplinary proceedings.

Many participating States are yet to institutionalize systematic and formalised training for all newly-appointed judges. In addition, continuing legal education for all judges, including training in international law, is another area in need of improvement in the OSCE area.

Questions that could be addressed:

- How do the participating States ensure the independence of judges vis-à-vis the executive and the legislative branches of government?
- Are judges appointed through a transparent procedure based on qualifications and merit?
- What measures are taken to strengthen judicial integrity? What safeguards are taken to ensure that these measures do not undermine judicial independence?
- How are transparency and due process ensured in judicial disciplinary proceedings? What steps are taken to ensure that these proceedings are not abused?
- Is systematic training for all newly-appointed judges institutionalized?

Follow-up to the Human Dimension Seminar on Constitutional Justice (14-16 May 2008)

Constitutional courts or other relevant structures authorized to carry out constitutional review play a key role in upholding the rule of law. Their jurisprudence helps ensure compliance of legislation with the constitution, thereby maintaining consistency in the legislative framework and safeguarding constitutional principles, including the concept of separation of powers. Constitutional courts frequently define and interpret both constitutional rights and obligations. Importantly, constitutional courts also play a role in translating international legal obligations of a state into the domestic legal order. They have a special place in the system of separation of

powers and are often called upon to interpret and clarify the boundaries of authority of the executive and the legislature.

Access to constitutional courts is one of the key factors that determine their impact and effectiveness. Some constitutional courts in the participating States are not accessible to individuals and civil society groups. Practices of co-operation with civil society vary across the OSCE area.

As with other institutions endowed with judicial functions, independence is an indispensable enabling attribute for the proper performance of constitutional courts' duties. Constitutional courts are vulnerable to becoming targets of political pressure and influence. Moreover, the effectiveness of constitutional courts is undermined if their decisions are not enforced. Compliance with the constitutional courts' decisions is essential not only for the sake of legal certainty, but also for maintaining public trust in the legal system and the legal process.

Questions that could be addressed:

- How can state authorities in the participating States improve the independence of constitutional courts and ensure that constitutional courts are free from political pressure in their decision-making?
- How can public officials, including judges, be made aware of the role of constitutional courts and the imperative to comply with their judgments?
- How can participating States ensure adequate financial independence of constitutional courts and allocate sufficient resources for their efficient functioning?
- What steps should be taken by the participating States to develop and maintain effective and accessible administrative justice systems as a pre-requisite for ensuring accountability of state institutions and the rule of law?
- How may the OSCE facilitate more contacts and exchanges of experiences among constitutional review bodies of the participating States and with international courts and tribunals?
- How may the OSCE support activities that strengthen the rule of law and constitutionalism in the participating States including compliance with the constitutions by all public authorities?

TUESDAY, 30 SEPTEMBER

10:00-13:00

WORKING SESSION 2

Fundamental freedoms I, including:

- Address by the OSCE Representative on Freedom of Media;
- Freedom of expression, free media and information.

Freedom of expression, free media and information

There are numerous OSCE commitments to ensure the individual's freedom of expression, the free flow of information, and the freedom of the media. This session will mainly focus on:

- violence against journalists and impunity;
- lack of protection for investigative journalism, such as the right not to reveal their sources;
- legal protection of critical speech.

On 29 February 2008, the RFOM held an experts' meeting in Vienna to celebrate the Office's first decade of existence. The event, held under the auspices of the Finnish OSCE Chairmanship, was designed to look at "Present and future challenges to media freedom and free expression in the OSCE region". The anniversary event featured a number of experts who gave examples of the challenges that journalists face every day such as cases where states tolerate harassment or where journalists are physically assaulted or even murdered; where pluralism is considerably restricted by undue government influence; where journalists' rights to investigate their governments are denied; and where offending or critical views can be punished as 'extremism' or 'hate speech'.

At his regular report to the OSCE Permanent on 3 July 2008, the RFOM named two tasks as most urgent: curbing violence against journalists, and abolishing undue restrictions on free speech and reporting. Recent years have seen deterioration in these two crucial dimensions of press freedom - the physical security of journalists, and the legal protection of critical speech. Violence targeting journalists in several OSCE countries, mostly in revenge for critical coverage, continue to be a reality on the ground. Additionally, many such actions are conducted with impunity.

Arbitrary, politically motivated restrictions on dissenting or offensive speech endanger media freedom as effectively as violence does. They range from labelling as 'extremist' the reporting, debates, or criticism on controversial issues to criminalization of historical or religious disputes. These tailor-made bans come in addition to the criminalization of 'defamation' and 'breach of secrecy', which still continues to harm professional journalism in many countries.

Questions that could be addressed:

- How could OSCE participating States improve the implementation of their commitments to ensure freedom of expression, the free flow of information and free media, especially with regard to proper investigation in cases of threats, violence, or even murders against journalists?
- What are the best practices with regard to protecting journalistic sources, which are conducive to helping the media fulfil their role as the informer of the public and on ensuring accountability and transparency of the Government?
- How can the investigative rights of the media be ensured? How can we address the potential conflict between freedom of the media and other human rights, such as the presumption of innocence in criminal proceedings and the right to freedom from discrimination?
- What measures can be provided by the relevant players, i.e., governments of participating States, the OSCE and other international

governmental organizations, NGOs, journalistic associations and media organizations to support pluralism and independence of the media, freedom of critical opinion, and access to information?

- Can we simultaneously preserve freedom of the press and foster respect for cultural sensitivities?
- What role can media self-regulation play to encourage the professional development of the press, while keeping and enhancing its freedom?

15:00-18:00

WORKING SESSION 3

Fundamental freedoms II, including:

- Freedom of assembly and association;
- Freedom of movement;
- NHRIs and the role of civil society in the protection of human rights.

Freedom of assembly and association

The rights to freedom of assembly and association are intrinsic to any democratic society. They allow citizens to come together either on an informal or formal basis by forming or joining associations or by organizing peaceful gatherings in order to express their views on matters of public concern. In the 1990 Copenhagen Document, the participating States reaffirmed that “everyone will have the right of peaceful assembly and demonstration” and expressed their commitment to “ensure that individuals are permitted to exercise the right to association, including the right to form, join and participate effectively in non-governmental organizations which seek the promotion and protection of human rights and fundamental freedoms, including trade unions and human rights monitoring groups”. In the 1999 Istanbul Charter for European Security, the participating States further acknowledged “that NGOs are an integral component of a strong civil society and perform a vital role in the promotion of human rights, democracy and the rule of law”.

These two freedoms have been a frequent subject for discussion in the OSCE framework, including at previous HDIMs and SHDMs. Implementation of relevant OSCE commitments into national legislation and practices still poses a challenge. Civil society actors in some participating States continue to report difficulties in exercising their right to assemble and associate, either formally or informally. Overly wide interpretations of antiterrorism legislation, vaguely formulated laws on freedom of assembly and freedom of association as well as excessive powers vested in local authorities as to the application of legislation lead to a situation when these two freedoms can not be exercised effectively.

Questions that could be addressed:

- Have participating States created a favourable environment for the exercise of the freedom of assembly and association by means of laws and practices consistent with international standards?

- Have participating States implemented relevant recommendations from the previous OSCE meetings? What challenges are they experiencing in the implementation process?
- What are the main legal obstacles limiting the activities of NGOs and other civil society actors?
- How can undue state interference in the activities of NGOs and other civil society actors be avoided?
- When deciding the legitimacy of any restrictions on the right to freedom of assembly, do participating States' laws provide for a transparent and participatory decision-making process?
- Are there examples of how the OSCE/ODIHR *Guidelines on Freedom of Peaceful Assembly* influenced legislation and practices in OSCE participating States?
- How can the OSCE, its institutions and field operations assist OSCE participating States in the implementation of their commitments on freedom of association and freedom of assembly?

Freedom of movement

With the population mobility on the increase, people in the OSCE region move both within their countries and between their countries, and therefore participating States have developed a number of specific commitments related to freedom of movement and human contacts, starting with the Helsinki Final Act.

Despite OSCE commitments to facilitate the movement of people across borders and within their own countries, some participating States still have restrictions such as exit visas and population registration regimes that restrict freedom of movement and freedom to choose one's place of residence or freedom to leave one's country. Some countries have introduced limitations on leaving the country for particular population groups in the fight on trafficking in human beings.

Questions that could be addressed:

- Are participating States fully implementing their commitments concerning freedom of movement? What problems are they experiencing in the implementation process?
- How can a balance be found between national-security concerns and the right to freedom of movement? What criteria do participating States use in this regard?
- What are the challenges in developing efficient models of population registration in the participating States? How can the OSCE assist participating States in enhancing their internal registration regimes?
- How can participating States balance administrative conditions required for registering a place of residence while not infringing fundamental rights?
- How can the OSCE, and in particular the ODIHR, assist the participating States in implementing best practices of cross-border co-operation and humane migration management?
- How can the OSCE enhance co-operation with other actors in this field at the national and international levels?

- How can the OSCE help to ensure that issues of migration and asylum are not confused with issues of terrorism and trafficking in human beings or narcotics?

National human rights institutions and the role of civil society in the protection of human rights

Independent national human rights institutions (NHRIs) compliant with the Principles relating to the Status of National Institutions (*Paris Principles*) contribute to the promotion and protection of human rights. The importance of these institutions has been recognized in OSCE commitments; for example, participating States have pledged to "... facilitate the establishment and strengthening of independent national institutions in the area of human rights and the rule of law..." (Copenhagen 1990). As part of their role in receiving, investigating and seeking to resolve complaints of human rights violations, NHRIs can not only identify protection gaps in national human rights systems, but also form partnerships with human rights defenders and civil society at large.

OSCE participating States have also stated their commitment "to ensure effectively the rights of the individual to know and act upon human rights and fundamental freedoms, and to contribute actively, individually or in association with others, to their promotion and protection..." (Copenhagen 1990). Furthermore, participating States have also emphasized "the need for protection of human rights defenders", looking forward to "the completion and adoption, in the framework of the United Nations, of the draft declaration on the "Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms" (Budapest 1994). This declaration was adopted by the UN General Assembly (A/RES/53/114) in 1998.

Civil society contributes significantly to the promotion and protection of human rights and fundamental freedoms. It advances respect for human rights at the national, regional and international level. Civil society collects and disseminates information about human rights violations, lobby their governments and advocate greater efforts by states to implement their human rights obligations, mobilize public opinion on issues of concern, contribute to the implementation of human rights treaties, support victims of violations with legal advice, counselling and rehabilitation, and provide human rights education and training.

As the State has the primary responsibility for the protection of human rights at the national level, there is a need for a continuous interaction between the State organs and civil society. Several factors play an important role in ensuring a vibrant civil society positively interacting with State bodies: these include respecting the freedoms of individuals to exercise their rights; consulting with civil society on important policy decisions which may influence the human rights situation and providing protection to civil society actors. ODIHR's Focal Point for Human Rights Defenders and NHRIs was created in order to identify issues of concern, and to strengthen co-operation with national human rights institutions. In 2007, the ODIHR produced a report on *Human Rights Defenders in the OSCE Region: Our Collective*

Conscience, which identified a number of worrying trends in the challenges faced by human rights defenders in the OSCE region and made recommendations on how to address those challenges.

Questions that could be addressed:

- How can independent NHRIs be established and strengthened in accordance with relevant OSCE commitments and the UN *Paris Principles*?
- How can the relationship between civil society and human rights defenders on the one hand and between civil society and independent NHRIs on the other hand be strengthened?
- How can NHRIs support civil society more effectively?
- What challenges do civil society actors and human rights defenders face in the OSCE region?
- What opportunities do OSCE participating States create to facilitate the work of civil society? How can these opportunities be further reinforced?
- How can the OSCE, its institutions, and field operations assist participating States in ensuring particular support and protection to human rights defenders in the countries where they are under threat?

WEDNESDAY, 1 OCTOBER

10:00 – 13:00

WORKING SESSION 4

Rule of law II, including:

- Exchange of views on the question of abolition of capital punishment;
- Prevention of torture;
- Protection of human rights and fighting terrorism.

Exchange of views on the question of abolition of capital punishment

There is a continuing trend towards the abolition of the death penalty in the OSCE region. Out of 56 OSCE participating States, only two continue to carry out executions. In the Vienna Document of 1989, the participating States that retain the death penalty committed themselves to using capital punishment only for the most serious crimes and in a manner consistent with their international commitments. In addition, in the Copenhagen Document of 1990, OSCE participating States committed themselves to exchange information and inform the public regarding the use of the death penalty and on the question of the abolition of the death penalty.

Questions that could be addressed:

- What developments have occurred in the OSCE region regarding the abolition of the death penalty or the introduction of moratoria?
- To what extent are the OSCE commitments on the death penalty, including in regard to the exchange of information, being complied with by OSCE participating States?
- What steps are needed in law and practice to ensure that international legal obligations on the use of the death penalty are observed?
- How can the availability of statistics on the use of the death penalty (including sentences and executions) be improved?

- What standards and best practices should be observed by OSCE participating States that have a moratorium on executions in place?

Prevention of Torture

The participating States undertook to prohibit and take effective measures to prevent and punish torture in the Vienna Document of 1989. The absolute nature of the prohibition against torture is reflected in the Copenhagen Document of 1990. In the Istanbul Charter of 1999, the OSCE participating States further committed themselves to the eradication of torture and other cruel, inhumane or degrading treatment or punishment in the OSCE area. However, torture and ill-treatment continue to exist in varying degrees in many countries.

In the context of the fight against international terrorism, challenges have arisen to concepts such as the absolute prohibition against torture and the definition of torture, as developed in international law.

A relatively new tool now exists in international law for combating torture – the Optional Protocol to the UN Convention against Torture (OPCAT). It came into force in 2006 and is aimed at strengthening anti-torture prevention measures by introducing systematic visits to detention centres, to be carried out by national bodies, supported by visits from an international Subcommittee on Prevention of Torture created under the Protocol. The participating States were urged to give early consideration to signing and ratifying this Protocol in a Ministerial Council Decision of 2005 (MC.DEC/12/05 of 6 December 2005).

Questions that could be addressed:

- Are those participating States who are not parties to the OPCAT considering early signature or ratification? What steps are those OSCE States who are parties to the OPCAT taking to establish national preventive mechanisms and enact effective implementing legislation?
- To what extent have participating States prohibited torture in their national criminal law as required by international law, and to what extent is the offence of torture defined in conformity with the relevant international instruments, rather than in a more restrictive manner?
- How are participating States ensuring in practice that torture prevention is incorporated in training for such sectors as law enforcement personnel, the judiciary and detention centre staff?
- What mechanisms exist in participating States to ensure that allegations of torture and ill-treatment are investigated in a transparent and impartial manner and punished appropriately?

Protection of human rights and fighting terrorism

It is imperative that measures taken to prevent and combat terrorism and violent extremism comply with the rule of law, relevant provisions of international law, including in particular human rights and international humanitarian law. Counter-terrorism measures that violate human rights may have adverse, counterproductive effects: They may in fact increase support for violent extremism and in doing so diminish, rather than enhance, security and

stability in the long term.

Many human rights and fundamental freedoms have been impacted by counter-terrorism strategies and practices. The right to be free from torture, cruel, inhuman or degrading treatment or punishment is, for example, absolutely protected yet continues to be debated. Another right which may be affected is the right to liberty and security of the person, which includes, *inter alia*, a prohibition on arbitrary detention; the right to be informed of the reasons for arrest or detention; and the right to challenge the lawfulness of the detention and release where a court decides that the detention is unlawful (considered one of the most important safeguards of a person's freedom). Freedom of religion or belief, which protects an individual's right to practice his or her faith without the interference of state authority, may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health, morals or the fundamental rights and freedoms of others. Each individual should be free to pursue the faith of his or her choosing without being suspected of extremism on the basis of their religious beliefs.

Other rights, such as the rights to equal treatment and non-discrimination, the right to a fair trial, rights of free expression, association and assembly, as well as rights of privacy and property may also be impacted. The full spectrum of these rights are covered by the OSCE human dimension commitments, and participating States have committed themselves to fully protecting them (Moscow, para. 23, i-ix), including specifically within the context of combating terrorism (Bucharest Plan of Action for Combating Terrorism (2001) para. I.3; OSCE Charter on Preventing and Combating Terrorism (2002), paras. 5, 7).

Questions that could be addressed:

What steps are being taken by participating States to ensure that:

- counter-terrorism practices do not violate the right to be free from torture and to ensure that there is no interference with the absolute protection afforded by this right?
- the principle of non-refoulement and the right to appear before a judge are respected in all extraditions or transfers of individuals between jurisdictions?
- persons suspected of terrorism are not being held in detention arbitrarily, incommunicado, without access to a lawyer or without remedy?
- counter-terrorism practices are subject to judicial review and/or parliamentary oversight?
- counter-terrorism practices respect human rights and fundamental freedoms and that limitations of these rights are legitimate and proportionate to the situation?

15:00-18:00

WORKING SESSION 5

Tolerance and non-discrimination I, including:

- Address by the OSCE High Commissioner on National Minorities;

- National minorities;
- Preventing aggressive nationalism, racism and chauvinism;
- Follow up to the 29–30 May 2008 Supplementary Human Dimension Meeting on the Role of National Institutions against Discrimination in Combating Racism and Xenophobia with a Special Focus on Persons Belonging to National Minorities and Migrants.

National minorities

Resolving problems related to the specific needs of national minorities is in the interest of the minorities themselves as well as in the interest of the States in which they live and the OSCE region as a whole. Recognition of the plurality of communities and interests that comprise the State and of the value of harmonious inter-ethnic relations strengthens its stability and cohesion. It is encouraging that the development of constructive minority policies and policies that promote integration while respecting cultural and religious diversity is gaining increasing attention in the OSCE region. The OSCE participating States have established various forms of legal and institutional frameworks for the protection of the rights of persons belonging to national minorities.

However, it has become increasingly clear that the rights-based approach in the spirit of effective protection defined by international commitments and obligations may not, in and by itself, provide for a broader inclusion of minorities. Effective implementation of international commitments and obligations regarding the rights of persons belonging to national minorities requires States to develop sound integration policies that take into account and respect diversity.

Economic, social and political exclusion and discrimination of national minorities is often entrenched in existing institutional practices, so that legal standards and rights-based institutions cannot assure by themselves equal opportunities and benefits for persons belonging to national minorities provided by the State or to basic human rights stated in constitutions or in specific laws. To adequately and effectively address the underlying causes of exclusion, it is necessary to develop institutional arrangements to ensure full and active participation of persons belonging to national minorities. Such mechanisms are already in place or under development in different countries, under various forms, such as:

- Special quotas of places in education for minorities;
- Special governmental departments, offices/agencies for minorities, with branches at regional or local levels;
- National networks of experts on minorities issues;
- Health and community mediators for people belonging to national minorities;
- Mainstreaming of equality at all levels of government;
- Support for teaching the State language to minorities;
- Programmes targeting deprived areas.

The participation of persons belonging to national minorities could be strengthened at all levels and stages in the decision-making processes,

specifically by:

- Being part of the process of elaborating policies;
- Being involved in implementation;
- Acting as officials within the institutional mechanisms for implementation;
- Participating in monitoring, evaluating, and assessing the respective policies.

Questions that could be addressed:

- Are OSCE participating States implementing their commitments to ensure the rights of persons belonging to national minorities?
- Do States have sufficient anti-discrimination legislation in place and is it being implemented properly?
- How can the effective participation of national minorities in public life be achieved beyond mere representation in legislative bodies?

States should ensure that persons belonging to national minorities are effectively represented at the *executive, legislative, and judicial* branches of government, at all levels: national, regional, and local. Affirmative action is a tool that is used to generate development and implementation of inclusion policies, so that the enjoyment of human rights and fundamental freedoms and the rights guaranteed by national constitutions becomes a reality for persons belonging to national minorities.

- To what extent are persons belonging to national minorities represented in governmental institutions and public bodies and administrations?
- The policies of OSCE participating States regarding political participation should be based on objective and non-discriminatory criteria and should not be used to restrict the enjoyment of rights of persons belonging to minorities.
- What good practices of OSCE participating States exist to avoid discriminatory criteria in the field of political participation?
- Notwithstanding the contemporary importance of multilateral standards and institutions in protecting and promoting the rights of persons belonging to national minorities, bilateral co-operation among States regarding specific issues and groups remains a matter of interest for many OSCE participating States. Which elements of such cooperation are best suited for bilateral co-operation, and which elements might best be left to the multilateral level?

Preventing aggressive nationalism, racism and chauvinism

The determination of the OSCE participating States to combat aggressive nationalism, racism, chauvinism, and ethnic-cleansing has been reaffirmed in numerous OSCE documents (Copenhagen 1990, Helsinki 1992, Stockholm 1992, Rome 1993, Budapest 1994, Lisbon 1996, Istanbul 1999, Bucharest 2001, and Porto 2002). The participating States committed themselves to combat these phenomena both by political and legislative means and by promoting awareness and understanding of the subject. Unfortunately, aggressive nationalism, chauvinism, and ethnic-cleansing still manifest themselves in the OSCE area.

This discussion should look at the causes of these phenomena and how they can be addressed. This session should examine what legal and political steps can be taken to prevent discrimination, ensure equality and respect for diverse cultural identities, and facilitate the effective participation of minorities in public life while respecting the rights of freedom of expression, assembly and association. The special role of education and the media in promoting tolerance and non-discrimination is another area for discussion.

Questions that could be addressed:

- What steps should OSCE participating States take to implement measures aimed at combating and preventing such phenomena as aggressive nationalism, racism, chauvinism, and ethnic-cleansing? How should States monitor and evaluate these measures to ensure their effective implementation?
- Which policies in the OSCE participating States have been successful in promoting inclusiveness, understanding, and tolerance?
- What are the possibilities and limitations for governmental policies? In this regard, special attention should be paid to the importance of human rights education and the promotion of a human rights culture throughout society, as policies and legislation against discrimination and intolerance will not be fully effective unless they are complemented by activities that seek to bring about new behaviour and attitudes and increase mutual understanding.
- How can governments and the media contribute positively to public perceptions and attitudes?
- What can the OSCE do to assist governments in their efforts to prevent aggressive nationalism, chauvinism, and ethnic-cleansing?

National Institutions against Discrimination in Combating Racism and Xenophobia

Following the 2007 Madrid Ministerial Council Decision on Tolerance and non-Discrimination, participating States were encouraged to establish national institutions or specialized bodies to combat intolerance and discrimination as well as to develop and implement national strategies and action plans in this field. Although the majority of OSCE countries have in place national human rights or ombudsman institutions to deal with human rights violations in general, their mandates and capacity to deal more specifically with manifestations of racism and xenophobia vary.

At the May 2008 SHDM entitled *National Institutions against Discrimination in Combating Racism and Xenophobia with a Special Focus on Persons Belonging to National Minorities and Migrants* participants examined the role of national institutions within participating States in responding to and combating racism and xenophobia, in particular where such cases involve persons belonging to national minorities and migrants. In this framework, they discussed ways to overcome challenges met by those institutions and exchanged best practices. Following up on this event, this session will focus on how to further support the efforts of National Institutions in combating racism and xenophobia (NIADs) and in particular, in addressing

the needs of persons belonging to national minorities and migrants.

Questions that could be addressed:

- What steps should OSCE participating States take to strengthen the role and mandate of NIADs and ensure their independent position? How could the OSCE assist participating States in establishing or strengthening NIADs?
- How can the role of NIADs in developing and implementing national policies and actions plans combating racism and xenophobia be further strengthened?
- How can NIADs improve social awareness about and engage the general public in efforts to combat racism and xenophobia and to promote mutual respect and understanding towards migrants and persons belonging to national minorities?
- Which are the most successful mechanisms for cooperation between civil society, NIADs and governmental bodies in combating racism and xenophobia?

THURSDAY, 2 OCTOBER

10:00-13:00

WORKING SESSION 6

Tolerance and non-discrimination I (continued):

- Implementation of the OSCE Action Plan on Roma and Sinti;
- Follow up to the 10–11 July 2008 Supplementary Human Dimension Meeting on Sustainable Policies of Roma and Sinti Integration.

The Action Plan on Improving the Situation of Roma and Sinti within the OSCE Area (Action Plan) remains the main basis for the OSCE work on Roma and Sinti issues, and its full implementation continues to be lacking. During the July 2008 Supplementary Human Dimension Meeting on *Sustainable Policies for Roma and Sinti Integration*, it was noted that “the improvement of the situation of Roma and Sinti is unfinished business”. This session follows up on discussions begun at the July SHDM. In addition, ODIHR has compiled a Status Report on the implementation of the OSCE Action Plan on Roma and Sinti.

The Status Report marks the first comprehensive attempt to review national experiences and practice based on the Action Plan to date. Its purpose is to assist policy-makers to consider examples of best practices and substantive shortcomings, and challenge national, regional and local authorities to re-conceptualize their Roma-related strategies. This session should seek solutions to render concrete and sustainable outcomes to integrate Roma and Sinti. For progress to continue, national and regional authorities will need to take a proactive approach by ensuring that adequate financial, institutional and human resources are provided. This session should also collect best practices at the regional and local levels. This will be particularly useful in identifying concrete action for further improving the situation of Roma and Sinti within the OSCE area. In this regard, the support for early education

initiatives is viewed as crucial to fostering social inclusion of this group.

Questions that could be addressed:

- What initiatives, at the national and local level, have been successful in addressing the challenges Roma and Sinti face when accessing public services?
- What are lessons learnt and existing good practices at regional and local level in enhancing access to public services by Roma and Sinti?
- How can regional and local authorities be more active in supporting practical and sustainable implementation strategies for Roma and Sinti?
- How can participating States strengthen early education strategies for Roma and Sinti?
- How can early education for Roma and Sinti become a mainstream issue which all actors would be ready to support? What are the prerequisites for having such initiative realized by the OSCE? How can other international organizations support or co-operate?

15:00-18:00

WORKING SESSION 7

Tolerance and non-discrimination II, including:

- Equality of opportunity for women and men;
- Implementation of the OSCE Action Plan for the Promotion of Gender Equality;
- Prevention of violence against women.

Equality of opportunity for women and men

The OSCE participating States have committed to promoting equality between women and men as an essential element for achieving a more peaceful, prosperous and democratic OSCE region and have undertaken to implement necessary steps in their national jurisdictions to ensure de jure and de facto equality among women and men. While many OSCE participating States have taken important steps to combat-gender based discrimination, concerns still remain in the field of women's enjoyment of their rights in political, social, and economic matters. This is particularly evident in societies where governments fail to ensure adequate legal and policy frameworks for ensuring equality among women and men and for countering gender-based stereotypes in private and public fields. In addition, promoting equality of rights and opportunities among women and men is often viewed as the goal of women's groups rather than a key element of government's obligation for protecting and promoting individual rights and freedoms and fostering pluralism and public participation in governance. To achieve this, participating States should implement policies that encourage active contribution of all citizens, including men, in combating gender-based discrimination and gender-based violence.

This session will serve to identify a number of recurrent challenges in the OSCE participating States in promoting effective equality of rights and opportunities among women and men, and will aim at furthering the dialogue

on the implementation of the existing OSCE and other international commitments in this field.

Questions that could be addressed:

- How are the OSCE participating States implementing their commitments to ensure equal opportunities for men and women and are the existing policies being translated effectively into practice? What challenges have been identified in the process of the implementation?
- What measures are participating States taking to ensure women's equal participation in democratic processes?
- How can OSCE assistance in ensuring equal opportunities for men and women be strengthened? What steps need to be taken?
- What are the best practices in strengthening co-operation between governments and civil society for the advancement of gender equality?

Implementation of the OSCE Action Plan for the Promotion of Gender Equality

With the adoption of the revised OSCE Action Plan for the Promotion of Gender Equality in 2004 the OSCE participating States have pledged to undertake all necessary measures to ensure effective gender mainstreaming of all OSCE activities, policies, and programmes and to take vigorous steps at the national level to ensure equality of rights and opportunities among women and men. The session will address achievements and challenges in the implementation of the Action Plan and will provide insights into the ongoing process of gender-mainstreaming of the organization's internal structures and policies, including in the politico-military dimension as well as in relation to efforts taken at the national level to implement commitments for promoting gender equality. There is a ODIHR-DCAF-INSTRAW *Gender and Security Sector Reform Toolkit* that can assist in efforts to mainstream gender.

Questions that could be addressed:

- How can the OSCE ensure, in practice, systematic and consistent integration of a gender perspective in all its activities, policies, and decisions, including all three dimensions of the organization's work?
- What procedures has the OSCE put in place to monitor and evaluate progress on implementation of its Action Plan for the Promotion of Gender Equality?
- What best practices can be identified from various participating States in their endeavours to promote the implementation of the OSCE Action Plan at the national level (namely, in the fields of promoting non-discriminatory legal and policy frameworks, preventing and combating domestic violence, fostering equal opportunity for participation of women in political and public life, encouraging women's participation in conflict prevention, crisis management and post-conflict rehabilitation activities, promoting equal opportunity for women in the economic sphere, and building national mechanisms for the advancement of women).

Prevention of violence against women

With the adoption of Ministerial Council Decision 15 in 2005, the OSCE

participating States further committed to taking all necessary legislative, policy, and programmatic monitoring and evaluation measures to promote and protect full enjoyment of the human rights of women and to prevent and combat all forms of violence against women and girls. In addition, particular attention must be paid to domestic violence, as one of the most acute manifestations of violence against women across the OSCE region.

With the aim of creating effective mechanisms for combating violence against women, policies and measures should be developed for increasing public awareness on the issue, and developing capacity and expertise of law enforcement and medical professionals to identify and address cases of domestic violence. Engagement and active participation of civil society organizations in combating violence against women should be ensured through joint initiatives on awareness-raising and education, victim protection and rehabilitation.

Questions that could be addressed:

- How are the OSCE participating States fulfilling their commitment to combat violence against women?
- What legal and other practical measures have proven most effective in combating violence against women, particularly domestic violence and various forms of exploitation of women?
- How can the OSCE ensure, in practice, effective assistance to participating States in their efforts to combat violence against women?
- What are the best practices in the field of promoting joint state/civil society activities in order to combat violence against women and provide redress and rehabilitation to victims?

FRIDAY, 3 OCTOBER

10:00-13:00

WORKING SESSION 8

Specifically selected topic: Education and awareness-raising in the promotion of human rights

Human rights education is one of the most important ways of promoting human rights in societies: people learn about rights they have, mechanisms available to them and how to use them, they learn to treat others with respect and become actively engaged in protection and promotion of the rights of others. The term “human rights education” (HRE) is often used as an umbrella term for many other types of education such as education for mutual respect and understanding (EMRU), citizenship education (CE), peace education (PE). All these and other related types of education are ultimately about action for building human rights cultures in our societies. To ensure widespread knowledge and to support a culture of human rights it is crucial that people learn about human rights starting from an early age.

OSCE commitments in the field of education and awareness-raising go back to the Helsinki Final Act in which States committed to publishing and disseminating the text of the Final Act. In the Moscow Document (1991),

OSCE participating States agreed on the fundamental role of human rights education and recognized it as essential that their citizens are educated on human rights and fundamental freedoms. The relevant commitments on HRE/EMRU were further expanded in later OSCE documents: Istanbul Charter for European Security (1999), OSCE Strategy to Address Threats to Security and Stability in the Twenty-first Century, MC Decision 4/03 on Tolerance and Non-Discrimination, MC Decision 11/05 on Promotion of Human Rights Education and Training in the OSCE Area, Cordoba Declaration, etc. All of these documents stress the need for HRE/EMRU as important means for conflict prevention and the prevention of human rights violations. Similarly, HRE is an important means to “promote and enhance tolerance, co-existence and harmonious relations between ethnic, religious, linguistic and other groups, [to] provide early warning of and appropriate responses to violence, intolerance, extremism and discrimination of these groups, [and to] promote respect for the rule of law, democratic values and individual freedoms” which is key to the OSCE’s approach to combating and preventing terrorism (OSCE Bucharest Plan of Action (2001)). This Working Session will provide an opportunity to review these relevant commitments.

The focus of the Special Day on education and awareness-raising in the promotion of human rights will be teaching and learning about human rights in schools, as well as in-service and pre-service teacher training, in participating States. This discussion will feed into the universal framework in the UN World Programme for HRE and its Plan of Action of the first phase focusing on primary and secondary schools (GA Resolution 59/113 B). In addition, the importance of the duty of participating States to ensure adequate human rights awareness among State employees and elected officials is of special interest.

There are different models on how to integrate HRE into school curricula. Some countries opt to have it as a separate course (for example “human rights”, “tolerance”), other countries integrate it into already existing subjects such as political science, civic education, history, etc. In some countries, these subjects are taught starting from the secondary level of education, while in others its elements are integrated already in primary school (for example as part of a “life skills” course).

The morning session will focus on practice, especially exchange of information and best practices in awareness raising and education on human rights. It will address the ways to include HRE/EMRU in the existing educational systems and in teacher training. The session will allow sharing and discussing good practices in the pS, and concentrating on how particular HRE practices can shape learners’ skills, knowledge, and values, and provide a basis for action.

Questions that could be addressed:

- What good practices in HRE/EMRU exist in schools in participating States and why are they good practices?
- How is HRE/EMRU included into the education systems in participating States?
- What are the main trends in HRE/EMRU?
- Do school environments foster democratic values?

- What challenges exist in HRE/EMRU and how are these addressed?
- How can teacher training (in-service and continuing professional development) include HRE/EMRU?
- How are specific human rights issues (for example genocide, internal/cross border conflict issues, gender issues and elimination of stereotypes) in HRE/EMRU addressed in the participating States' policies, curricula, teacher training, learning materials and other activities involving students?

15:00-18:00

WORKING SESSION 9

Specifically selected topic: Education and awareness-raising in the promotion of human rights (continued):

The afternoon session will focus on lessons learned in participating States as regards the quality and impact of human rights education in schools. It is generally recognized that HRE/EMRU are powerful tools to combat inequality, prevent human rights violations, preserve peace and build mutual respect and understanding. However, it is not always the case that the countries are actually evaluating whether teaching about human rights is changing the skills and the attitudes of learners, and whether it eventually leads to a more democratic and respectful environment in schools and in societies. It is important for governments to evaluate their efforts in this regard in order to measure change and revise programmes/policies accordingly. While the impact of HRE on society may be difficult to measure, it may be more feasible to assess whether pupils, teachers or school environments change. In different countries evaluation is carried out by different institutions (ministries of education, external consultants, etc.) and on various levels (national, regional, school levels). It is important to conduct such evaluation, and integrate findings into schools and teacher training curricula.

The session will also address the issue of the use of expertise which is available through intergovernmental and non-governmental organizations. There is vast expertise available in the area of human rights education. However, it is not always the case that this expertise is effectively used in the participating States. In some countries, civil society groups that work in HRE have limited access to the formal education system, which deprives schools of access to their methodological, content-related and evaluation tools and experience. Inter-governmental organizations active in the field also have expertise which is available.

Discussion, feedback and recommendations made during the second session on specifically selected topic will also serve as possible future input of the OSCE into the UN Declaration on Human Rights Education and Training (HRET) which will be drafted over 2008-2009 with the views and input from relevant international organizations (Human Rights Council Resolution 6/10).

Questions that could be addressed:

- How are HRE/EMRU evaluated in participating States to assess its impact on the learner, schools and society?
- What role do the governments in participating States play in evaluating HRE/EMRU, and in developing expertise? Does this require improvement?
- How can/do NGOs contribute to HRE in schools?
- What lessons have been learned in each participating States?
- Have any changes been made based on evaluations? If so, what changes?
- How do participating States use the expertise of civil society and international organizations working in the field of HRE/EMRU and how can this channel of expertise be improved?
- What recommendations/inputs would participating States have for the UN Declaration on HRET?

10:00-13:00

WORKING SESSION 10

MONDAY, 6 OCTOBER

Tolerance and non-discrimination II (continued):

Review of the implementation of commitments, promotion of mutual respect and understanding and addressing hate crimes:

- Combating racism, xenophobia and discrimination, also focusing on intolerance and discrimination against Christians and members of other religions;
- Combating anti-Semitism;
- Combating intolerance and discrimination against Muslims.

This session will be used to review implementation of the commitments related to tolerance and non-discrimination undertaken by participating States, including the most recent commitments under the Maastricht, Sofia, Ljubljana, Brussels and Madrid Ministerial Decisions on Tolerance and Non-Discrimination. Participants may also discuss progress made and steps taken in follow-up to the 2007 High-Level OSCE Conference on Combating Discrimination, Promoting Mutual Respect and Understanding that was held in Bucharest on 7 and 8 June.

The session will also examine the measures taken by participating States to combat racism, xenophobia, anti-Semitism, discrimination and intolerance, including against Christians, Jews, Muslims and members of other religions. The measures taken to address hate-motivated crimes and to use tolerance education to combat intolerance and discrimination will also be reviewed.

Questions that could be addressed:

- To what extent have participating States implemented their commitments pertaining to tolerance and non-discrimination, particularly those contained within Maastricht, Sofia, Ljubljana, Brussels and Madrid Ministerial Council Decisions?

- What concrete tools and programmes exist to support implementation of OSCE commitments related to tolerance and non-discrimination by the participating States?
- In particular, what steps have been taken by the participating States to encourage the promotion of educational programmes in order to raise awareness among youth of the value of mutual respect and understanding?
- What measures have been taken in order to counter xenophobic stereotypes, intolerance and discrimination in the media, without endangering freedom of expression and information?
- How can the ODIHR and other OSCE institutions, including the three Personal Representatives of the Chairman-in-Office for tolerance and non-discrimination issues, the High Commissioner on National Minorities, the Representative on Freedom of the Media and field missions provide further support to OSCE participating States in implementing their commitments on tolerance and non-discrimination?
- What steps have been taken by OSCE participating States to strengthen their collection and dissemination of data and statistics pertaining to hate crimes?
- How can the ODIHR and other OSCE institutions improve their cooperation with other inter-governmental agencies?

15:00-18:00

WORKING SESSION 11

Humanitarian issues and other commitments, including:

- Migrant workers, the integration of legal migrants;
- Refugees and displaced persons;
- Treatment of citizens of other participating States.

Migrant workers, the integration of legal migrants

Increasing population mobility is one of the main characteristics of a modern society and brings new challenges for countries to develop and implement migration policies that are both humane and pragmatic. Migration can be a positive factor in economic and social development for both host and home countries and can contribute to understanding among cultures and to fostering democratization trends. However, migrants can also become victims of negative stereotyping, intolerance, xenophobia and violations of human rights. A comprehensive approach to migration management taking into account co-operation between countries of origin, transit and destination will provide a basis to deal with migration-related challenges.

Engagement and participation of legal migrants in the social, political, and public life of the host society are very important determinants of integration. Democratic and inclusive citizenship laws can be an effective tool for full integration and naturalization of legal migrants while allowing them to preserve their identity. Some additional measures such as language education, orientation to community services and health care, and legislation against discrimination of migrants can be taken to further integration. Overall,

awareness-raising within host societies on migrants and their role in and contributions to the society is essential.

The aim of this session will be to review the implementation of the OSCE commitments on migration and integration, protection of the human rights of migrants, as well as to assess the current situation and challenges within the OSCE region. This session could also be used to highlight and to follow up to the OSCE Supplementary Human Dimension Meeting on *The Role of National Institutions against Discrimination in Combating Racism and Xenophobia*, the OSCE Human Dimension Seminar on *Migration and Integration* of 2005 and the 2005 OSCE Economic Forum on *Demographic Trends, Migration and Integrating Persons belonging to National Minorities*. These include mechanisms for fostering dialogue on labour migration among all stakeholders in the host countries and promoting co-operation on migration management and protection of the human rights of migrants between countries of origin and destination.

Questions that could be addressed:

- Are the participating States establishing interstate dialogue between sending and receiving countries?
- Are the participating States making sufficient efforts to establish proper procedures for migrant workers to arrive and stay in their countries on a legal basis?
- What are good examples of simplified procedures for the provision of work permits or legal-status documents to migrants?
- How are the participating States involving NGOs, employers and employees, including migrants, in the process of elaboration of national migration and integration policies?
- What are examples of legislation that are aimed at preventing structural and institutional discrimination against migrants?
- What are the participating States doing to ensure the inclusion of migrant women and children into the integration process?
- Are the participating States developing special training programmes for law enforcement officers, government officials, civil servants, employers, etc. on the treatment of migrants, their rights, and their place and role in the host society?

Refugees and Displaced Persons

While most OSCE participating States are party to the 1951 Refugee Convention and the 1967 Protocol, the principle of *non-refoulement* has been under strain in the recent years. According to international law, refugees should not be transferred to a place where they are at risk of torture, cruel, inhuman treatment or punishment or of other serious human rights abuses. International protection can only be provided if asylum-seekers have access to the territory of States where their protection needs can be assessed properly. The plight of refugee women and children is an issue that OSCE has been paying attention to in conflict-affected areas.

The primary responsibility for providing for the security and well-being of internally displaced persons (IDPs) lies with national authorities, who must

protect and respect their human rights and fundamental freedoms including regarding their physical security, in accordance with their obligations as parties to international human rights treaties and with their OSCE commitments. Participating States should provide, in particular, adequate shelter, education, documentation, employment, and opportunities for political participation by developing strategies, laws, policies, and relevant national institutions. During the Maastricht Ministerial, participating States recognized 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". The United Nations Guiding Principles on Internal Displacement are a valuable tool in development of policies affecting the IDPs and can be fully utilized by the participating States as well as by the OSCE Field Operations.

The prohibition of forced return is one of the cornerstones of protecting IDPs. They should be permitted to choose between returning to their areas of origin or settling elsewhere in a country guaranteeing their right to freedom of movement and choice of residence, and they should receive needed assistance in either case. In order to facilitate reintegration, appropriate procedures and institutions, as well as necessary legislation and policies, must be in place. The legal and administrative regimes governing property repossession must be consistent with each State's international human right obligations and national constitutions.

OSCE Field Operations in conflict and post-conflict areas provide support to resolve the problematic situation of IDPs and refugees and monitor their safety and human rights, especially during their return. Assistance is crucial in the development of appropriate strategies for voluntary return or resettlement, minority protection, property restitution, and reintegration of refugees and displaced persons in their places of origin.

Questions that could be addressed:

- How are participating States implementing their commitments concerning refugees and IDPs? How can OSCE institutions, missions, and field operations best assist the participating States in that field?
- Which mechanisms have States set up to protect refugees and IDPs from forced return to unsafe conditions?
- Are there models of co-operation between state authorities and non-governmental organizations in the planning and framing of return and reintegration programmes for IDPs and refugees?
- How do participating States facilitate the voluntary return in safety and dignity, or, if IDPs wish, the resettlement and (re)integration of IDPs?
- How can participating States effectively address and resolve protracted refugee situations?
- How do States ensure access of displaced persons to adequate shelter, education, documentation, employment, and political participation?
- How do participating States respond to cases of discrimination of displaced persons and violation of their human rights?
- What role is civil society playing in assisting governments in providing support to refugees and IDPs? How can this role be strengthened?

- Is there a need for reinforced/new OSCE commitments in the area of human rights protection for refugees and IDPs?

Treatment of citizens of other participating States

Freedom of movement, free choice of place of residence, and contacts among the citizens of participating States are important in the context of the protection and promotion of human rights and fundamental freedoms. Participating States have to ensure that their policies concerning entry into their territories and the presence and movement of citizens from other participating States on their territories are fully consistent with the aims set out in the relevant OSCE documents. Participating States committed themselves to removing all legal and other restriction with the exception only of those restrictions that may be necessary and officially declared for state interests in accordance with their national laws.

It is important to ensure that administrative authorities dealing with citizens of other States implement OSCE commitments on travel and freedom of movement and respect the personal dignity and human rights of people entering their respective countries.

Questions that could be addressed:

- Have the OSCE commitments on the treatment of citizens of other participating States been introduced into the legislation and migration policies of all participating States?
- Do participating States treat citizens of other participating States in accordance with their OSCE commitments? What factors can result in people being treated differently?

TUESDAY, 7 OCTOBER

10:00-13:00

WORKING SESSION 12

(Specifically selected topic): Freedom of religion or belief:

Freedom of religion or belief is one of the most central and longstanding of OSCE human dimension commitments. Principle VII of the 1975 Helsinki Final Act commits participating States to “recognize[ing] and respect[ing] the right of the individual to profess and practice, alone and in community with others, religion or belief in accordance with the dictates of his own conscience.” During the CSCE process, this basic commitment to freedom of religion or belief was further elaborated and developed to become the most detailed and complete provision pertaining to religion of any international human rights instrument (see, e.g., Vienna Concluding Document 1989). Recent Ministerial Council decisions, MC Decisions 4/03 (Maastricht), 12/04 (Sofia), 10/05 (Ljubljana), 13/06 (Brussels), 10/07 (Madrid), have reiterated the importance of the commitment to freedom of religion or belief, also linking it to the promotion of tolerance and non-discrimination and to raising awareness of religious diversity, including in the area of education. A series of meetings and conferences on issues related to the promotion of respect and understanding have underscored the importance of upholding freedom of religion or belief in the fight against intolerance and discrimination.

Throughout the OSCE region, individuals, religious or belief communities and participating States face a range of issues related to freedom of religion or belief. Many individuals and communities continue to be challenged by restrictions to their rights. Problems encompass infringements of the right to change, adopt and renounce a religion or a belief, as well as limitations to the right to manifest one's religion or belief. The latter category includes disruption or prohibition of worship even in private homes as well as attacks or restrictions on places of worship.

This session will review the implementation of commitments related to freedom of religion or belief undertaken by participating States. In the implementation of their commitments, OSCE participating States can benefit from the expertise of the ODIHR's 61-member Advisory Panel of Experts on Freedom of Religion or Belief established in 1997 to provide high-level knowledge on issues related to freedom of religion or belief. The session will also look at how the Advisory Panel can further assist participating States.

Questions that could be addressed:

- To what extent are OSCE States fulfilling their commitments to ensure and promote freedom of religion or belief? What are the main issues or obstacles arising when implementing the commitments?
- What measures can be undertaken to further support participating States to implement their commitments? How can the ODIHR and the Advisory Panel assist participating States?
- What synergies can be found among the OSCE Institutions and Field Operations, and between the OSCE and other international actors, to promote the implementation of the commitments in the area of freedom of religion or belief?

15:00-18:00

WORKING SESSION 13

**(Specifically selected topic): Freedom of religion or belief
(continued):**

MC Decision 4/03 (Maastricht) commits participating States to ensure and facilitate the freedom of the individual to profess and practice a religion or belief, alone or in community with others, where necessary through transparent and non-discriminatory laws, regulations, practices and policies. MC Decisions 10/05 (Ljubljana) and 13/06 (Brussels) task the ODIHR to continue supporting participating States and providing expert assistance through its Advisory Panel of Experts on Freedom of Religion or Belief. The importance of constitutional and legislative systems that provide adequate and effective guarantees to the right to freedom of religion or belief has been highlighted also in the latest report of the United Nations Special Rapporteur on Freedom of Religion or Belief to the Human Rights Council (Sixth Session of Human Rights Council, December 2007).

The ODIHR has developed a toolkit aimed at assisting participating States in

the area of legislation on freedom of religion or belief. The toolkit consists of *Guidelines for Review of Legislation Pertaining to Freedom of Religion or Belief* (2004) prepared by the Advisory Panel; legislative reviews and expertise provided upon request of participating States; and a training module for relevant drafters and government officials.

This session will focus on law-making and law implementation in the area of freedom of religion or belief, with a specific focus on emerging issues. This session will also offer the opportunity to discuss specific topics related to freedom of religion or belief while at the same time highlighting the importance and actuality of freedom of religion or belief in the human rights discourse as well as its interdependency with other human rights, including freedom of expression, assembly, and the right to education. ODIHR has also developed *Guidelines on Freedom of Peaceful Assembly* (2007).

Questions that could be addressed:

- How is the need for legislation in the area of freedom of religion or belief assessed?
- How can participating States ensure that the law-making process is transparent and inclusive vis-à-vis relevant civil society actors and religious or belief communities?
- What are the main issues arising when developing legislation on freedom of religion or belief?
- What are the main difficulties encountered when implementing relevant legislation?
- How can the ODIHR toolkit assist participating States?
- How should the interdependence and complementarity between the FoRB and other fundamental freedoms be taken into account in the promotion and protection of Human Rights? How is the FoRB related especially to freedom of expression and assembly?

WEDNESDAY, 8 OCTOBER

10:00-13:00

WORKING SESSION 14

(Specifically selected topic): Focus on identification, assistance and access to justice for the victims of trafficking:

This specifically selected topic will allow participating States to take stock of the implementation of commitments and developments related to the identification, assistance and access to justice of trafficked persons. The first session will focus on recent developments and the state of identification and assistance of trafficked persons in the OSCE region. The second session will allow the participants to review and exchange policies, practices and challenges in securing trafficked persons' access to justice, including compensation.

In addition to effective identification of trafficked persons, advice and assistance services for victims of trafficking in human beings have proven to be essential elements of trafficked and exploited persons' access to their rights

and justice. To pursue criminal, civil and labour law claims, trafficked persons must be aware of their rights and have access to adequate assistance. In addition, measures need to be in place to guarantee the security and well-being of the person for the duration of a claim procedure and afterwards.

This is reflected in OSCE commitments which call for a comprehensive and human rights approach to combating trafficking in human beings. In 2003, States committed in the OSCE Action Plan to Combat Trafficking in Human Beings to 'strive to render assistance and protection to victims of trafficking'. In 2007, States highlighted the importance of addressing victim assistance and access to justice in the context of trafficking for labour exploitation. In Decision no. 8/07 the Ministerial Council recognizes the challenges of identification and assistance to victims, including uncertainty regarding their residency status as well as the intimidation and exploitation of victims' fears by traffickers. It also recognizes the need for complaint procedures that encourage victims to come forward and emphasizes the importance of anti-trafficking policies and practices that include enforcement of labour laws and workers rights. In this decision, the Ministerial Council calls on participating States to increase efforts to identify victims of trafficking and to ensure that they have access to justice. This includes supporting partnerships between civil society and state agencies with a labour protection mandate to monitor working conditions.

The specifically selected topic on Trafficking at the 2006 OSCE Human Dimension Implementation Meeting highlighted a number of persisting concerns related to identification and protection: practices of victim identification and referral for assistance remain inconsistent and often not victims rights based, but led by immigration and prosecution interests. Rights information, assistance and protection are fundamental to ensure identification as they provide the necessary incentives for trafficked persons to come forward and denounce exploitation. A significant number of victims have been and continue to be unwilling to self-identify, to be assisted by or to cooperate with law enforcement. This is the case because identification often does not lead to sustainable solutions to their needs, including their wish to migrate and need to work. Few foreign victims receive a regular legal status in the country where they are being exploited. In practice, identification often means status determination by a sole state authority and results in the exclusion of cases which are complex and whose victims appear less "genuine" or "deserving". This may be because they entered a country illegally or have fraudulent documents, are involved in criminal activities or in prostitution, or come from a marginalized group in society or are simply unable or unwilling to cooperate with law enforcement.

Inclusive and empowering ways of identification and assistance of trafficked persons are seldom explored, often ad hoc and in only few cases encouraged and supported by participating States. Vulnerable groups and persons need a support network through increased outreach or community work, raising awareness of rights and remedies and tools for those in need to access them and improving conditions in work sectors prone to exploitation through greater regulation and monitoring.

Questions that could be addressed:

- How are participating States ensuring that practices of identification of trafficked persons are inclusive and empowering and result in the protection of the rights of those exploited? How can the OSCE assist the participating States in enhancing such identification practices of trafficking in victims, in particular child victims?
- What measures have States taken to reach out to and assist especially vulnerable groups, such as migrants, minorities and the poor?
- What special measures have been taken to identify and assist child victims?
- What laws, policies and practices have States put in place to ensure that trafficked persons, regardless of their legal status, have access to assistance, rights protection and justice?
- What measures have States taken to prevent the exploitation of workers, including migrant workers, and to ensure the enforcement of their rights and to promote respect for core labour standards?
- What measures have States taken to enhance the identification of persons trafficked for labour exploitation and what specific assistance measures have been put in place?

15:00-18:00

WORKING SESSION 15

Specifically selected topic): Focus on identification, assistance and access to justice for the victims of trafficking (continued):

International law has established a number of standards on access to justice and fair treatment of victims of crime, and also standards specific to victims of human trafficking. Victims of human trafficking are entitled to access justice mechanisms and prompt redress for the harm they have suffered. Such judicial and administrative mechanisms should be expeditious, fair, inexpensive and accessible. Victims should be informed of their rights in seeking redress and how to do so. Judicial and administrative processes and authorities need to be responsive to the needs of victims. This includes: informing victims of their role and the scope, timing and progress of proceedings; allowing the views and concerns of victims to be presented and considered; informing victims about and providing them with legal, material, social and medical assistance including throughout the legal process; taking measures to minimize inconvenience to victims and treating them with sensitivity, protecting their privacy and ensuring their safety from intimidation and retaliation; and, ensuring that victims are not criminalized, punished or re-traumatized.

An important aspect of access to justice and rights is payment of compensation established by international anti-trafficking standards, including on labour rights and the rights of victims. It is a means of redressing the rights violations experienced by trafficked persons and has an important restorative and preventive effect. This right mainly consists of a right to claim compensation from the trafficker/exploiter, and in cases of violent crime, a right to compensation from state funds.

The OSCE Action Plan to Combat Trafficking in Human Beings also recommends that States should: “consider legislative provisions for confiscation of the instruments and proceeds of trafficking and related offences” and that “the confiscated proceeds of trafficking will be used for the benefit of victims of trafficking” (Chapter III, s.1.5). MC Decision 8/07 recommends States to “Consider elaborating or strengthening their legislation that offers victims of trafficking for labour exploitation the possibility of obtaining compensation for damage suffered, including, where appropriate, restitution of wages owed to them”.

Only a small minority of trafficked persons make claims for compensation, even fewer are granted compensation awards and still fewer have actually received the compensation payment. To support the participating States efforts in implementing their commitments on compensating victims of trafficking, the OSCE/ODIHR prepared a study on “Compensation of Trafficked and Exploited Persons”. The study analyses the systems of compensation available in the individual countries, identifies good practices and challenges to its payment and develops recommendations for future action for state actors, civil society organizations and international organisations.

Questions that could be addressed:

- Which laws and mechanisms have States put in place to ensure that victims have access to justice? How is their implementation and impact monitored and assessed?
- Have victims of trafficking benefited to what extent from legal assistance in pursuing access to justice, including through criminal, civil and labour proceedings?
- Which mechanisms for claiming compensation are available (criminal, civil, labour proceedings, state funds)? What kind of damages can be claimed?
- How many trafficked persons have claimed/been awarded/received compensation for material and moral damages suffered?
- What are legal and practical obstacles for trafficked persons to claiming and receiving compensation and how can they be removed?
- How are the special needs of child victims in relation to the right to access to justice and right to claim compensation ensured?

THURSDAY, 9 OCTOBER

10:00-13:00

WORKING SESSION 16

Discussion of human dimension activities (with special emphasis on project work), including:

- Presentation of activities of the ODIHR and other OSCE institutions

and field operations to implement priorities and tasks contained in the OSCE decisions and other documents.

In recent years, the OSCE has played an active role in strengthening democracy and human rights practices, as well as in promoting reinforced compliance with human dimension commitments by OSCE participating States. An important element in this accomplishment has been the development and implementation of targeted activities and projects, which are part of a longer-term, cross-cutting strategy. These human dimension activities have grown in scope and duration to include specific assistance efforts, programmes, and projects (e.g., legislative and technical assistance, training, and workshops for both government officials and members of civil society, human rights education). The OSCE also plays an important role by drawing attention to a specific issue and creating a space and a forum for focused dialogue, which can be followed up by concrete assistance.

The OSCE and its institutions and field operations have been able to identify areas in which they are well placed to facilitate change and reform. The OSCE works with specific States and in sub-regional groupings, as well as in consultation and co-ordination with other international organizations. The ODIHR's mandate covers all 56 participating States. It can therefore provide a channel for exchange of experience and best practices from one region of the OSCE to another, and be effective in supporting and complementing the work of OSCE field operations.

This session will explore the ODIHR's role as a facilitator and its offer of targeted programmes of assistance and expertise across the OSCE region. Field operations and other OSCE institutions/structures may present lessons learned from their activities and how they can be used as a catalyst for discussion and co-operation between and within participating States, including civil society. Participating States, international organizations and civil society, including NGOs, are invited to comment on the presentations and to present their own project priorities for reciprocal comment. The aim is to identify how participating States can derive most benefit from the OSCE's offer of assistance in implementing the priorities and tasks contained in OSCE decisions and other documents.

Questions that could be addressed:

- How can the OSCE be most effective in assisting participating States in implementing their human dimension commitments?
- What are successful examples of OSCE interventions, programmes, and projects from past years? Why were these successful?
- In which areas are the OSCE institutions and field operations best placed to facilitate change by creating a forum for dialogue?
- How specifically can the OSCE be a catalyst for discussion and co-operation, thus allowing participating States, including civil society, to make more progress towards fulfilment of their commitments?
- How can OSCE's institutions as well as its Parliamentary Assembly facilitate the sharing of expertise and experience from one region or participating State of the OSCE to another?

- How can the interplay between OSCE institutions' and field operations' mandates and programming be used most effectively?
- What are examples of successful human dimension activities and programmes conducted by other organizations (international, national, local) from which the OSCE could learn?

15:00-18:00

WORKING SESSION 17

Democratic institutions, including:

- Democratic elections;
- Democracy at the national, regional and local levels;
- Citizenship and political rights.

The 1990 Copenhagen Document presents wide-ranging commitments agreed upon by all OSCE participating States for fostering the protection and promotion of human rights and fundamental freedoms, as well as the promotion of democratic institutions and the rule of law. Furthermore, the OSCE participating States have on many occasions committed to conducting genuinely democratic elections. Over the past 15 years, the OSCE has placed great emphasis on promoting democratic elections as a key pillar of sustainable security and stability.

The ODIHR is mandated to assist participating States in the implementation of election-related commitments through long-term and comprehensive observation. It assesses whether elections are conducted in line with OSCE commitments and national legislation, and formulates recommendations for future improvements. In this context, the ODIHR has developed a systematic observation methodology that permits insights into all aspects of an electoral process. The methodology developed by the ODIHR has inspired other organizations involved in election monitoring. In its election observation efforts, the ODIHR continues to work in partnership with the OSCE Parliamentary Assembly, in line with MC DEC. 19/06. It continues also its cooperation with the Parliamentary Assembly of the Council of Europe and the European Parliament.

Since the start of last year's HDIM, the ODIHR has followed elections in Armenia, Belarus, Croatia, Georgia, Kyrgyzstan, the Former Yugoslav Republic of Macedonia, Italy, Montenegro, Poland, Serbia, Spain, Switzerland and Uzbekistan.

Following the principles of equality of sovereign States, all 56 OSCE participating States are bound by the same commitments. In this context, the ODIHR has further broadened the geographic scope of its activities to follow electoral developments in a broader range of participating States. This has been possible in recent years by deploying election assessment missions to countries with a tradition for conducting democratic elections, primarily to assess the legal and administrative framework for electoral practices, and to provide possible recommendations as necessary.

While the ODIHR is able to note examples of commendable election practices in keeping with OSCE commitments in some participating States, and improvements in others, shortcomings have also been identified. The following disturbing trends are regularly still identified in some OSCE participating States during the course of ODIHR election observation missions. These trends most often attempt to limit competition and marginalize voter choices, including:

- Limitation on the right to be elected;
- Limitations to a free campaign environment;
- Inequitable access to the media and biased coverage by the media;
- Lack of transparency and accountability during the counting and tabulation of the votes
- Challenges to universal and equal suffrage due to deficiencies in voter registration;
- Lack of confidence in the impartiality of the election administration;
- Inadequate and ineffective complaints and appeals process; and
- Limitations to the work of international and domestic election observers.

Overall, these shortcomings require further attention and improvement in some participating States in order to bring election processes in line with agreed upon OSCE commitments for the conduct of democratic elections.

Beyond election observation, the ODIHR continues to address the implementation of OSCE commitments through targeted technical assistance projects. For many years, the ODIHR has particularly specialized in the review of election legislation, often carried out in cooperation with the Council of Europe's Commission for Democracy through Law ("Venice Commission"). It has focussed on the implementation of its comprehensive recommendations through the development of follow-up activities and attempts to ensure ongoing and constructive post-election dialogue.

Questions that could be addressed:

- How are OSCE participating States meeting their commitments to conduct democratic elections?
- What are the main remaining challenges that OSCE participating States face in meeting their election-related commitments? What resolute actions can OSCE participating States take to address these challenges?
- Recognising that OSCE States have the primary responsibility for implementation, how can the ODIHR further assist them in addressing these challenges and in meeting their commitments?
- How can follow-up activities and post-election constructive engagement be enhanced in order to more effectively assist the implementation of ODIHR recommendations? How to further develop the national and international mechanisms for more effective follow-up to ODIHR recommendations?
- How are participating States ensuring participation of women and inclusion of minorities?
- How are participating States addressing challenges such as establishing election administration bodies that enjoy broad confidence, effective voter registration procedures, candidate registration procedures, an

equitable campaign environment including access to media and campaign finance regulation, accessible and timely complaints and appeals procedures, honest vote count and tabulation procedures, and upholding the rights of election observers, including international, as well as partisan and non-partisan domestic observers?

- How are participating States addressing the introduction of new technologies in a manner that ensures the same transparency and accountability as traditional procedures?
- Do participating States see the utility in reviving a discussion on additional commitments to supplement the existing ones?

FRIDAY, 10 OCTOBER

10:00-13:00

CLOSING REINFORCED PLENARY

Reinforced Closing Plenary session

Based on *Permanent Council Decision No. 476 on the Modalities for OSCE Meetings on Human Dimension Issues*, the HDIM will be concluded by a Plenary Session that is reinforced by the participation of Human Rights Directors or similar senior officials responsible for human dimension matters in the Foreign Ministries of the 56 participating States, as well as OSCE ambassadors and the Heads of the OSCE institutions.

This Session aims at reviewing the results of the HDIM on the basis of the presentation of the reports on the working sessions on human dimension activities, as well as on the specifically selected topics.

The Reinforced Closing Plenary Session will look at how direction can be given with regard to the effective follow-up of the discussions in the different working sessions and the recommendations that came out of these discussions in light of further discussions in the Permanent Council on the results of the HDIM as well as with regard to the preparations of the next OSCE Ministerial Council Meeting in Helsinki on 4 and 5 December 2008.

- Reports on the Working Sessions on Human Dimension Activities as well as on the specifically selected topics;
- Reports from the work of the HDIM and review of the results and recommendations from the first and the second week.

Any other business

Closing