

HUMAN DIMENSION IMPLEMENTATION MEETING
22 September to 3 October 2014
Warsaw, Poland

Rapporteur's report

Tuesday, 23 September 2014

Working session 3: Fundamental freedoms I (continued), including freedom of peaceful assembly and association

Rapporteur: Mr. Patrick O'Reilly, permanent Mission of Ireland to the OSCE

No. of statements:

Delegations: 8

Civil Society: 28

OSCE Inst./Int'l Org: 2

Rights of Reply: 11

Working Session 3 examined the implementation of OSCE commitments in the area of freedom of peaceful assembly and association, and the role of National Human Rights Institutions. The great majority of the 38 interventions and 11 Rights of Reply focused on the former issue.

Introducing the issue, *Ms. Katerina Hadzi-Miceva* Evans of ECNL stressed that democracy, as its most basic level, is about providing individuals with the space to be able to shape their community. She highlighted the crucial role that a healthy and vibrant civil society can play to this end and pointed to ongoing efforts at the Human Rights Council to agree a Resolution on Civil Society Space. However, despite the clear link between the freedom of peaceful assembly and association and the enjoyment of other fundamental freedoms, she drew attention to a worrying trend in some participating States to try to restrict the space for civil society through the use of restrictive legislative and administrative measures. Examples of such measures include creating administrative, technical and legal barriers to register organizations seen as critical of the authorities, unjustified inspections and audits of organizations, imposing disproportionate fines or other sanctions on organizations or individuals associated with them, requiring certain organizations that receive funding from outside of the country to register as "foreign agents", harassing individuals or their families, and using security concerns, such as counter-terrorism legislation, to restrict rights.

She called on participating States to reverse this negative trend by enhancing international norms to respond to emerging trends and to engage in a constructive dialogue with civil society. She also stressed the potential of ICTs to promote the freedom of peaceful assembly and association.

Participants noted the essential role that civil society plays in the healthy development of all States. Nevertheless, a great many specific examples of bad practices in restricting the freedom of peaceful assembly and association in a range of participating States were highlighted, citing many of the measures that the Introducer had referred to in her remarks. Several speakers spoke of harassment of individuals associated with civil society groups, including, in severe cases, by imprisonment. Certain participating States were repeatedly referred to during the session as being of particular concern.

A number of speakers spoke out against a trend in the promulgation of so called “propaganda” and “foreign agent” laws, designed to target and damage civil society, in particular where the legislation was broadly worded and ill-defined. Some speakers noted that transparency in funding of civil society organizations was important, although others countered that the laws did not always seem to be uniformly applied to all organizations.

Several speakers expressed concerns at the unnecessarily complex and overly burdensome administrative procedures applied in some participating States which can have a chilling effect on civil society organizations and make it difficult for them to operate.

Speakers agreed that peaceful assemblies should not be subject to harassment from the authorities, while recognizing that law enforcement authorities had a duty to protect law and order when assemblies became violent.

A large number of speakers welcomed ODIHR’s recent publication of Guidelines on Human Rights Defenders, its Guidelines on Peaceful Assembly (developed in conjunction with the Venice Commission) and looked forward to the upcoming joint Guidelines on Freedom of Association, which were cited as valuable contributions to assisting participating States meet their commitments.

A small number of interventions addressed the issue of National Human Rights Institutions, highlighting the important contribution they make as an interface between States, their people, and their international human rights commitments. The increasing interaction between independent and pluralistic NHRIs and various international reporting and review mechanisms was cited as a positive development that added value all round.

Recommendations to the participating States

- To fully implement their OSCE commitments in the areas of peaceful assembly and association, including permitting civil society to seek and receive financial support from domestic and foreign entities;
- To engage in an ongoing and constructive dialogue with civil society, including on any legislation or other measures that deal with the freedom of peaceful assembly and association;

- To allow civil society to maintain contacts and to cooperate with organizations from within and outside the countries where they are based;
- To ensure that laws or procedures that deal with associations do not impede the peaceful work of civil society;
- To speak out against cases where individuals have been persecuted because of their work as members of civil society;
- To release political prisoners and human rights defenders;
- To develop mechanisms to monitor the freedom of peaceful assembly and association and to review legislation in this area against international law and standards. To this end, a Special Representative on freedom of peaceful assembly and association could be created;
- To avoid using force in the policing of demonstrations, and where excessive force has been used, to hold those responsible liable;
- To ensure that any restrictions on assemblies are prescribed by law and consistent with international standards;
- To take advantage of OSCE tools and assistance, including the Guidelines on Human Rights Defenders and the ODIHR/Venice Commission Guidelines on Freedom of Assembly.

Recommendations to the OSCE, its institutions and field operations

- To monitor and report on violations of the freedom of peaceful assembly and association;
- To continue to work with other international and regional organizations on the issue of freedom of peaceful assembly and association;
- To engage with civil society organizations from across the OSCE region, including from Transnistria, South Ossetia, Abkhazia and Nagorno Karabakh.