OSCE Supplementary Human Dimension Meeting Freedom of Assembly and Association Vienna, 9 November 2012

EU Statement – Session 2

Freedom of Peaceful Assembly: new challenges and opportunities for dialogue

The European Union would like to underline that a vibrant civil society and a functioning democracy depend on freedom of citizens to exercise their right to peaceful assembly. This fundamental freedom is consistent with and essential to the comprehensive security concept on which this organisation is based: individuals and groups alike must feel they can safely exercise this right if they are to fully engage and participate in public life. Open dialogue and debate and the right of peaceful assembly contribute to the stability of societies thereby reducing the likelihood of conflict. The freedom to peacefully assemble also contributes to citizens' participation in public life.

Mr Chairperson,

As this session has demonstrated, many obstacles and challenges to the enjoyment of the freedom of assembly persist throughout the OSCE region.

The European Union would like to take the opportunity of this session to offer for consideration the following set of principles that could guide authorities in the management of the right to freedom of peaceful assembly. We believe it would be useful if participating States could agree to adhere to such principles, based on the 2010 Venice Commission / OSCE-ODIHR Guidelines on Peaceful Assembly.

- First principle: Peaceful assemblies, if regulated, should include a notification regime; persons wishing to organise an assembly may be required to give prior notification to the authorities; the period of notice should not be unnecessarily lengthy, but should allow adequate time for the relevant state authorities to make the necessary plans and preparations; at the same time, there should be an exemption for spontaneous assemblies where timely notification is not possible, and any sanctions imposed for failure to comply with the requisite procedure should be proportionate and at the lower end of the penalty scale;
- Second principle: Any restriction placed on an assembly should be communicated promptly and in writing to the event organisers, with an explanation of the reason for each restrictions; such decisions should be taken as early as possible so that any appeal to an independent court can be completed before the planned date of the assembly; access to an effective remedy for any undue restrictions on the freedom of peaceful assembly should be provided;

- Third principle: Any restrictions on assemblies, including their dispersal, shall only be imposed under the circumstances such as prescribed by law and consistent with international standards; dispersal should always be a measure of last resort and assembly organisers who have made reasonable efforts to fulfil their responsibilities should not be held liable for any non-peaceful actions of individuals participating in the assembly; Governments and law enforcement agencies shall adopt and implement rules and regulations on the use of force and firearms against persons by law enforcement officials; in developing such rules and regulations, Governments and law enforcement agencies shall keep the ethical issues associated with the use of force and firearms constantly under review and shall ensure that the use of force strictly adheres to the principles of necessity and proportionality; Governments shall ensure that arbitrary or abusive use of force and firearms by law enforcement officials is punished as a criminal offence under their law;
- Fourth principle: No unnecessary limitations on peaceful assemblies should be imposed in law or in practice; laws governing freedom of assembly should not impose sweeping blanket restrictions on the times or locations at which assemblies may take place; any limitations imposed on assemblies must be proportionate and non-discriminatory;
- **Fifth principle**: Any message of an assembly should not in itself be seen as challenging the peaceful character of an assembly; restrictions should not be imposed on an assembly on the basis of the content of its message.

Mr Chairperson,

The European Union proposed these principles to the participating States in a draft decision that can be found under reference PC.DEL/960/12 and circulated on 29 October 2012. We hope it is a useful contribution to the discussion of this session.

I thank you Mr Chairperson.

The Acceding Country Croatia*, the Candidate Countries the former Yugoslav Republic of Macedonia*, Montenegro*, Iceland+ and Serbia*, the Countries of the Stabilisation and Association Process and potential candidates Albania and Bosnia and Herzegovina, and the EFTA countries Liechtenstein and Norway, members of the European Economic Area, as well as the Republic of Moldova, Georgia and San Marino, align themselves with this statement.

- * Croatia, the former Yugoslav Republic of Macedonia, Montenegro and Serbia continue to be part of the Stabilisation and Association Process.
- + Iceland continues to be a member of the EFTA and of the European Economic Area.