



**HUMAN DIMENSION IMPLEMENTATION MEETING**  
**23 September to 4 October 2013**  
**Warsaw, Poland**

**ANNOTATED AGENDA**

**BACKGROUND**

The 1992 Helsinki Document mandates 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. Based on Permanent Council *Decision No. 476 of 23 May 2002*, on the modalities for OSCE Meetings on Human Dimension Issues, the objectives of the Human Dimension Implementation Meeting (HDIM) are to review human dimension commitments and to foster their implementation. Participants of this meeting may also evaluate the procedures and mechanisms for monitoring implementation of human dimension commitments.

Since 1998, the HDIM has taken place annually for a two-week period in Warsaw (except for 1999 and 2010, due to the Istanbul and Astana Summits, respectively). The HDIM brings together representatives from governments of the OSCE participating States and Partners for Co-operation, civil society, OSCE institutions, OSCE field operations, other OSCE structures, and other international organizations. In 2012, more than 1000 representatives were registered for the meeting.

The agenda for these meetings is adopted by the Permanent Council reflecting three special subjects to be dealt with more in-depth. For the 2013 meeting, the Permanent Council adopted the agenda in its *Decision No. 1090 of 26 July 2013*. 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/hdim\\_2013](http://www.osce.org/hdim_2013). Consolidated summaries of previous Meetings, including recommendations from participants, are available at <http://www.osce.org/odihr/44078>. The HDIM factsheet can be accessed at <http://www.osce.org/odihr/20680>. A thematic compilation of human dimension commitments can be found at <http://www.osce.org/odihr/43546>.

## **SCHEDULE OF MEETINGS**

**MONDAY, 23 SEPTEMBER 2013**

**10 a.m.–1 p.m.**

**OPENING PLENARY SESSION**

In accordance with PC.DEC/476, “[t]he opening Plenary Session will, as a rule, be addressed by the Chairperson-in-Office, a high representative of the host country, the Director of the ODIHR, the HCNM and the RFOM. The President of the OSCE Parliamentary Assembly will be invited to address this Plenary Session. A prominent international personality in the field of human dimension may also be invited to address the opening Plenary Session.”

**3–6 p.m.**

**WORKING SESSION 1**

### **Tolerance and non-discrimination I:**

- Address by the OSCE High Commissioner on National Minorities;
- National minorities;
- Preventing aggressive nationalism, racism and chauvinism.

### **National minorities**

Since 1975 a long list of obligations was adopted by the participating States with the aim to ensure the protection of human rights and fundamental freedoms of persons belonging to national minorities, including their right freely to express, preserve and develop their ethnic, cultural, linguistic or religious identity and to maintain and develop their culture in all its aspects, free of any attempts at assimilation against their will. Development and preservation of identity of persons belonging to national minorities are closely interlinked with their rights to use freely their mother tongue in private as well as in public, to establish and maintain their own educational, cultural and religious institutions, to disseminate, have access to, and exchange information in their mother tongue, to preserve their cultural and historical monuments and objects.

Recognition within the State of the plurality of communities and interests that comprise the State and of the value of harmonious inter-ethnic relations strengthens the stability and cohesion of the State. The OSCE participating States affirmed in 1990 that persons belonging to a national minority will enjoy the same rights and have the same duties of citizenship as the rest of the population (Paris 1990). Particular attention in this regard was paid to the need to ensure the free exercise by persons belonging to national minorities of their “right to participate fully, in accordance with the democratic decision-making procedures of each State, in the political, economic, social and cultural life of their countries including through democratic participation in decision-making and consultative bodies at the national, regional and local level, inter alia, through political parties and associations” (Helsinki 1992).

In 1992 the participating States established institution of the High Commissioner on National Minorities (HCNM) which provides early warning and early action in regard to

tensions involving national minority issues that, in the judgment of the High Commissioner, have the potential to develop into a conflict. The protection and promotion of the rights of persons belonging to national minorities, as an integral part of the protection of human rights, is key to addressing such issues and thereby preventing conflict.

Throughout the 20 years of HCNM activity, certain themes and questions relating to national minority issues recur more frequently than others in various ways throughout the OSCE area. The accumulated experience of the HCNM, stemming from direct and regular engagement with participating States, combined with expertise regarding relevant norms, policies and best practices, have enabled the High Commissioner to issue a number of thematic Recommendations and Guidelines that address specific minority rights or areas of concern, most recently the 2008 Bolzano/Bozen Recommendations on National Minorities in Inter-State Relations and the 2012 Ljubljana Guidelines on Integration of Diverse Societies.

The development of effective national policies that promote integration while respecting diversity are gaining increasing importance in the OSCE region. The most recent publication of the HCNM - the Ljubljana Guidelines on Integration of Diverse Societies (Ljubljana Guidelines) - is devoted to this issue and goes beyond the rights of persons belonging to national minorities or specific areas of concern and address integration as a responsibility of States to adopt a comprehensive approach that both ensures respect for minority rights and builds an inclusive and cohesive society. The Ljubljana Guidelines are based on the premise that integration with respect for diversity is a process that participating States can and should promote by designing the appropriate institutional and legislative framework and effectively implementing targeted policies in several policy areas. These include anti-discrimination; citizenship; language policy; effective participation in all areas of life; language; education; security and law enforcement; access to justice; media; and symbols and their use in public space. Although appropriate policies are necessarily context-specific, they should always include full respect for minority rights when addressing and seeking to engage with all groups in society. In this way, the HCNM approach to integration complements minority rights, placing additional emphasis on interaction and mutual engagement. Policies promoting this should include both majorities and minorities. Special attention to concerns that could lead to inter-community tensions is warranted, and the experience of the HCNM points to the need to explicitly address questions regarding a shared sense of belonging, mutual respect and shared public space, as well as inclusive citizenship policies. Integration policies that respect diversity avoid both assimilation and excessive separation between groups. Although these objectives are often declared by participating States, it is far more difficult to design and effectively implement policies that actually promote these objectives. The sharing of experiences among participating States in the design or implementation of integration policies can be a valuable source of knowledge and inspiration.

In the context of national minorities and integration it is important to respect the linguistic rights of national minorities and to balance them with efforts to promote and provide access to learning the State language.

Linguistic rights are closely related to the realization of other rights, notably those related to education and effective participation. The HCNM experience is that where national minorities live in substantial numbers within the same geographical area, integration is enhanced if minorities are allowed to use their own languages in their interactions with administrative authorities, regardless of its official status, alongside the State language. The

possibility to use a minority language in accessing (public) goods and services enhances effective participation not only in public life, but also in the social, economic and cultural life of society. Where a linguistically diverse State perceives and maintains a single official language as a tool of integration, allowing the use of other languages to some degree in public administration and services can help accommodate the needs and promote the inclusion of national minorities and strengthen integration of the whole society.

The focus of this session is to review implementation of commitments in the field of protection and promotion of the rights of persons belonging to national minorities, to identify main challenges in this area and to share best practices.

#### Questions that could be addressed:

- What are the main challenges in the implementation by the OSCE participating States of their commitments to ensure the rights of persons belonging to national minorities?
- Which participating States have integration strategies for national minorities and what is their experience in the design and implementation of these strategies?
- What examples of both targeted and mainstream policies that effectively support integration of national minorities, including access to goods and services, can serve as good practices?
- What institutional design (including budget provisions) can ensure that the institutions tasked with leading the development or implementation of integration policies relevant for national minorities can effectively perform their tasks, including the co-ordination of other governmental bodies or line ministries, as required?
- Which are the key policy areas that need to be included in policies promoting integration of national minorities?
- What institutional and normative design is best suited to developing sound language policies? What mechanisms are in place to ensure that minorities are consulted regularly on policy development and implementation?
- What can be done at the central and local levels to ensure that persons belonging to minorities have meaningful opportunities to learn the State language?
- What positive incentives can be effective in promoting use of the State language?
- What positive incentives can be used to improve the language proficiency of civil servants and how can addressing language policies enhance the representation of minorities in public administration?

#### **Preventing aggressive nationalism, racism and chauvinism**

Racism, racial discrimination, xenophobia and related intolerance are among the root causes of armed conflict. They fundamentally challenge the integration of society and are evidence of disrespect for diversity. A resurgence of nationalistic sentiment within parts of Europe, paired with xenophobic public statements by mainstream politicians, presents a danger to long-term stability within the OSCE area. History has repeatedly shown that no State is entirely safe from such forces, and constant vigilance is an imperative. National minorities, including the Roma, must be protected from curtailment of their liberties, including freedom of movement. The participating States are invited to discuss ways of counteracting the rise of extreme nationalist discourse in the political process, effective strategies to promote more inclusive and cohesive societies as well as adequate legal responses in dealing with hate crimes, discrimination, racism, as violent manifestations of extremism associated with aggressive nationalism and neo-Nazism.

Questions that could be addressed:

- After establishing an appropriate legal framework to address racial discrimination and hate crime, what policies are most effective in reducing growing intolerance between different groups?
- How can the media be encouraged to pursue editorial policies that discourage extreme nationalism and xenophobia while fully respecting the freedom of the media?
- What positive roles can politicians and political parties play in developing or countering such trends?
- Are there examples of good practices of co-operation between state authorities at state and local level and civil society actors in countering extreme nationalism and xenophobia?

**TUESDAY, 24 SEPTEMBER 2013**

**10 a.m.–1 p.m.**

**WORKING SESSION 2**

**Tolerance and non-discrimination II – Review of the implementation of commitments on promotion of mutual respect and understanding:**

- Prevention and responses to hate crimes in the OSCE area;
- 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.

OSCE participating States have agreed upon a broad range of commitments to combat all forms of intolerance and discrimination, including hate crime, and to promote mutual respect and understanding. These commitments acknowledge that racism, xenophobia, anti-Semitism, discrimination and intolerance, including against Muslims, Christians, Jews, Roma and Sinti and others, as well as violent manifestations of extremism associated with aggressive nationalism and neo-Nazism are a major challenge to social cohesion and protection of human rights across the OSCE region. To address such phenomena, the commitments include a number of positive steps to be taken, such as conducting awareness-raising activities, developing educational tools, encouraging the establishment of national institutions and specialized bodies, and co-operating with civil society. The Madrid Ministerial Council Decision (MC.DEC/10/07) encouraged participating States to adopt a comprehensive approach in order to effectively combat all forms of discrimination: to establish national institutions or specialized bodies to combat intolerance and discrimination, to develop and implement national strategies and action plans in this field, and to develop educational programmes in order to raise awareness among youth of the value of mutual respect and understanding.

At the 2003 Maastricht Ministerial Council Meeting, OSCE participating States recognized the importance of legislation to combat hate crimes and made commitments to "inform the ODIHR about existing legislation regarding crimes fuelled by intolerance and discrimination," and, where appropriate, to "seek the ODIHR's assistance in the drafting

and review of such legislation."<sup>1</sup> In 2009, the OSCE Ministerial Council adopted its first decision specifically devoted to the problem of hate crimes, stressing the need to review legislation, assist civil society efforts, collect reliable data, and train police to respond to hate crimes. "Race", religion and ethnicity are commonly understood as being characteristics that should be protected under hate crime laws, but there is also a substantial number of the OSCE participating States and NGOs and IGOs that record hate crimes based on bias towards people based on sexual orientation or gender identity.

OSCE commitments were highlighted at the OSCE High-Level Conference on Tolerance and Non-Discrimination (including Human Rights Youth Education on Tolerance and Non-Discrimination) in Tirana, Albania, in May 2013. Participants assessed and reviewed the implementation of commitments related to tolerance and non-discrimination, deplored the failure to implement some commitments, and stressed the need to adopt comprehensive strategies to combat all forms of intolerance and discrimination and to foster mutual respect and understanding, especially through education.

The aim of this session is to review the implementation of OSCE commitments related to tolerance and non-discrimination by examining challenges, good practices and lessons learned in this area. In particular, measures taken to prevent and respond to hate crimes, including strengthening hate crime legislation, collecting data, training law enforcement officers and co-operating with civil society organizations, as well as efforts in the field of education to counter prejudice and promote respect and mutual understanding, will be assessed.

Questions that could be addressed:

- How are participating States ensuring implementation of OSCE Ministerial Decision No. 9/09 on Hate Crime and OSCE Permanent Council Decisions 607 and 621 on Tolerance and the Fight against Racism, Xenophobia and Discrimination, as well as other related commitments established by Ministerial Council decisions between 2003 and 2007?
- What progress has been made by participating States in strengthening and implementing legislation and data-collection mechanisms to address hate crime and in identifying and implementing good practices? What are the barriers participating States face in this area? How can these be overcome?
- How can authorities actively engage with civil society organizations to combat hate crimes and other manifestations of intolerance, whilst recognizing the independent role played by the latter?
- What challenges do participating States face in preventing and responding to violent manifestations of prejudice and intolerance? What initiatives have been designed to meet these challenges, and how can ODIHR's tools further support OSCE participating States in their efforts?
- What measures can be further undertaken by the participating States to prevent intolerance and discrimination based on sexual orientation or gender identity?
- What educational policies, strategies and programmes have been developed and implemented by participating States to counter intolerance and discrimination and promote mutual respect and understanding?
- How can ODIHR and other OSCE institutions, including the three Personal Representatives of the Chairperson-in-Office on tolerance and non-discrimination

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<sup>1</sup>OSCE Ministerial Council Decision No. 4/03, Maastricht, 2 December 2003.

issues, better support OSCE participating States in implementing their commitments on tolerance and non-discrimination?

**3–6 p.m.**

**WORKING SESSION 3**

**Tolerance and non-discrimination II (continued):**

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

**Equality of opportunity for women and men, including Implementation of the OSCE Action Plan for the Promotion of Gender Equality**

In adopting the Moscow Document in 1991, OSCE participating States recognized that the “full development of society and the welfare of all its members require equal opportunity for full and equal participation of women and men”. Realizing equality of opportunity in practice requires the adoption of non-discriminatory legal frameworks as well as the establishment of regulatory mechanisms to ensure compliance with international and national gender equality obligations. To this end, participating States are encouraged to establish and strengthen national mechanisms for the advancement of women, including national human rights institutions, which are mandated to protect and promote women’s rights and gender equality.

The importance of women’s participation in all spheres of political and public life, particularly in decision-making, has been emphasized in a number of Ministerial Council Decisions, including Ministerial Council Decision 7/09 on Women’s Participation in Political and Public Life and Ministerial Council Decision 14/05 on Women in Conflict Prevention, Crisis Management, and Post-Conflict Rehabilitation. This includes promoting gender balance in all government branches and entities, such as the executive and judiciary, in representative bodies such as parliaments, as well as in security sector institutions, particularly law enforcement, border management and the armed forces.

The legitimacy of democratic institutions and reformed security sector institutions rests in their ability to represent and channel the needs and priorities of citizens – both women and men – into policymaking processes and in their daily activity. Although wide disparities between participating States remain, women’s representation in national parliaments, government bodies, and security sector institutions is slowly increasing across the OSCE region. Yet improvements in women’s *numerical* representation are not always matched by women’s enhanced *substantive* representation or by an increase in their ability to influence policy agendas, work plans and budgets. Such progress requires sustained attention to ensuring gender equality in internal processes, procedures, and policies that govern all institutions mandated to serve the public. Likewise, more efforts must be invested to ensure equal opportunities for political participation among women confronting multiple forms of discrimination, such as Roma and Sinti women and other marginalized groups.

To support States in meeting their obligations and commitments, participating States adopted the 2004 OSCE Action Plan for the Promotion of Gender Equality. Recalling that “the full and equal exercise by women of their human rights is essential to a more peaceful,

prosperous and democratic OSCE area”, participating States assumed primary responsibility for ensuring an enabling environment for the realization of gender equality both *de jure* and *de facto*. The 2004 OSCE Gender Action Plan also establishes a comprehensive framework for achieving gender balance within OSCE institutions, and for mainstreaming a gender perspective into all OSCE processes, programmes and policies. This session will allow participating States and civil society organizations to review progress in implementing the 2004 OSCE Gender Action Plan.

### **Prevention of violence against women and children**

Ministerial Council Decision 15/05 on “Preventing and Combating Violence against Women” emphasizes “the persisting level of violence against women and girls in the OSCE region, as well as at human and political costs of this phenomenon.” The Decision“ calls on participating States to comply with the Convention on the Elimination of All Forms of Discrimination against Women and the Convention on the Rights of the Child,” stressing that participating States have a duty to prevent, investigate and punish the perpetrators of such violence, as well as to protect victims, especially women, children, and those most marginalized in society.

Conscious of the particular vulnerability of children, the OSCE participating States decided in 1990 to accord special attention to the recognition of the rights of the child, their civil rights and individual freedoms, their economic, social and cultural rights, and their right to special protection against all forms of violence and exploitation, as per the 1990 Copenhagen Document.

These commitments were reconfirmed and developed further in 1999, when the OSCE participating States committed to undertake measures to end violence against women and children as well as sexual exploitation and all forms of trafficking in human beings, as per the 1999 Istanbul Summit Declaration and Charter for European Security. In order to prevent such crimes, the participating States decided, among other means, to promote the adoption or strengthening of legislation to hold accountable persons responsible for these acts as well as to strengthen the protection of victims, as per the 1999 Charter for European Security.

Recognizing that sexual exploitation of children is a serious and large-scale problem throughout the OSCE region and beyond, the Ministerial Council Decision 15/06 on “Combating Sexual Exploitation of Children” underlined the need to address the broad range of factors that make children vulnerable, including economic disparities, lack of access to education, discrimination, highlighting the need to counter demand for child pornography and sex tourism as well as to prevent the actions of perpetrators. In the 2007 Ministerial Council Decision 9/07, the OSCE participating States adopted another set of commitments on combating sexual exploitation of children on the Internet.

This session will explore good practices and measures that participating States can implement to enhance prevention and prosecution efforts as well as ensure protection of victims.

#### Questions that could be addressed:

- What are the challenges that participating States continue to confront in ensuring the equal participation of women and men in political and public life, including in security sector institutions?



- How can participating States capitalize on increases in women's numerical representation, to enhance women's influence on policy agendas and in decision-making fora?
- What measures can government and other actors introduce to support the equal participation of Roma and Sinti women and men in political, public and security sector institutions in OSCE participating States?
- What measures can participating States adopt to better recruit, retain and promote women in the security sector?
- What initiatives can participating States implement to sensitize all those serving in the security sector to the security needs of women and to properly address such needs?
- What efforts have participating States undertaken to support national mechanisms for the advancement of women and enhance their capacity to protect and promote women's rights and gender equality?
- In anticipation of the 10<sup>th</sup> anniversary of the adoption of the 2004 OSCE Action Plan for the Promotion of Gender Equality, how should participating States undertake to review and measure progress in its implementation?
- What progress has been achieved in preventing and combatting violence against women and children in OSCE participating States, and what more can be done?
- What measures have been taken by the participating States in order to address the needs and protect the rights of children, as a particularly vulnerable group?

### **WEDNESDAY, 25 SEPTEMBER 2013**

**10 a.m. – 1 p.m.**

**WORKING SESSION 4**

#### **Fundamental freedoms I, including:**

- Freedom of expression, free media and information, including best practices for protection of journalists;
- Address by the OSCE Representative on Freedom of the Media.

The session on media freedom will focus on how to better and more quickly implement the existing OSCE commitments in the field of free expression and media freedom. It will also provide an important forum to exchange good practices on protection of journalists. Since 1975, a long list of commonly formulated and agreed obligations was initiated and adopted by the participating States, with the aim to ensure that the media can function freely and independently, and journalists can carry out their work under safe conditions.

However, a lot remains to be done to turn these commitments into an organic part of national legislation and judicial practices. While significant differences continue to exist in the level of media freedom among participating States, there is no region in the organization where the commitments have been fully implemented and media freedom cannot be further improved.

The session on media freedom this year will tackle the following topic: recent developments and the current situation of media freedom in the OSCE, with special focus on the

importance to protect journalists, and on how free expression offline and online should be strengthened.

In 2013 as in the last years various forms of assaults against journalists continued on a wide range, including severe beatings, attacks, threats, blackmailing, imprisonment, interrogation, or detention; since the last HDIM in the OSCE region two journalists were murdered for their work.

As last year, the Office of the RFoM has not witnessed any significant improvement in the treatment of the media by the authorities, and in several cases the trend has gotten worse. Many governments continue to regard the media as a dangerous platform that needs to be controlled and sometimes even silenced, instead of considering the media to be what it is: an essential and unique tool of democracies that allows for every citizen to obtain and impart pluralistic information. Implementation of restrictive laws, such as criminal law provisions on libel or defamation, continues, and laws aimed at restricting the free nature of the Internet have also continued to mushroom.

The session will emphasize the importance of resolute and public condemnation by the authorities of violence against journalists, concerted efforts to put an end to the impunity of perpetrators, and the necessity to reform the laws that limit free expression.

How to ensure freedom of expression while combating hate speech will also be discussed at the session.

Besides discussing good practices, the session will also provide a forum to discuss the major obstacles to media freedom and free expression with the equal involvement of governments, other international organizations, human rights and media experts and NGOs, as well as with media representatives from the 57 participating States.

Questions that could be addressed:

- How can the OSCE participating States improve the implementation of existing OSCE media freedom commitments?
- What is the role of governments of participating States, intergovernmental organizations, non-governmental organizations, journalistic associations and media organizations in supporting pluralism and independence of the media, safety of journalists and access to information?
- How can participating States better ensure that the media can work freely and independently, and under safe working conditions?
- How can the authorities become more effective in ending impunity of masterminds and perpetrators of crimes committed against journalists?
- How can the sharing of best practices in the protection of journalists lead to increased media freedom OSCE-wide?
- What is the progress regarding decriminalization of libel and defamation in the OSCE area?
- What is the current state of Internet freedom in the OSCE?
- How can governments ensure that Internet regulation becomes minimal, designed only to help move forward the development of this borderless technology?
- How can the OSCE help ensure that the same rights that people have offline are also protected online, in particular freedom of expression?

- How can the OSCE participating States implement their commitments on media freedom and freedom of expression while combating hate speech?
- What is the role of civil society in media freedom advocacy?

**3–6 p.m.**

**WORKING SESSION 5**

**Fundamental freedoms II, including:**

- Freedom of movement;
- National human rights institutions and the role of civil society in the protection of human rights;
- Human rights education.

**Freedom of movement**

OSCE participating States use the term “freedom of movement” to describe a wide range of topics that concern not only the right of everyone to leave any country and the right of legal residents to freely move within the territory of a state but also the entry into and exit from the territory of states by non-citizens of OSCE participating States.

In Vienna in 1989, OSCE participating States committed to guarantee the universal right to freedom of movement, which comprised the right of everyone to leave any country and the right of legal residents to freely move within the territory of a state. In many OSCE participating States, citizens, resident non-citizens and foreign visitors are required to register their place of permanent or temporary residence with a relevant authority, affecting their right to freedom of movement and choice of residence. Where registration procedures and criteria are complex and onerous, they can effectively represent a deterrent and an obstacle for certain categories of the population in taking up legal residence within their state or in the place of their choice. While states are responsible for guaranteeing to their citizens the right to leave and return to their state, a few OSCE participating States continue to restrict the right to leave the state by requiring exit permits.

Commitments aimed at facilitating cross border human contacts have been affirmed in numerous OSCE documents (Helsinki 1975, Madrid 1983, Vienna 1989, Copenhagen 1990, Paris 1990, Moscow 1991, Budapest 1994, Ljubljana 2005). By adopting these commitments, the OSCE participating States, *inter alia*, encouraged mutually beneficial steps to clarify rules and simplify procedures with the purpose of allowing persons to enter or leave their territory temporarily for personal and professional reasons. This was particularly the case in relation to cross-border travel for humanitarian reasons, but also extended to facilitating contacts in other fields, such as business, education or science

The Supplementary Human Dimension Meeting (SHDM) on Freedom of Movement and Human Contacts that took place on 25- 26 April 2013 in Vienna highlighted the need for greater efforts in strengthening implementation of the corpus of freedom of movement commitments, as well as the need to further promote freer cross-border travel by continuing dialogue aimed at the liberalization of visa regimes.

This session will provide an opportunity to follow up on the discussions held in the framework of the SHDM, to review progress in the implementation of commitments and to assess the current situation and challenges within the OSCE region.

Questions that could be addressed:

- How has the commitment of OSCE participating States to “facilitate wider travel by their citizens for personal or professional reasons” (Helsinki, 1975) been implemented? Have they indeed gradually simplified and administered flexibly the procedures for exit and entry from and into other States? Have fees for visas and official travel documents been gradually lowered?
- Are participating States fully implementing their commitments concerning freedom of movement? What problems are they experiencing in the implementation process? Do participating States fully guarantee the freedom of movement to their nationals and foreigners legally residing on their territory? What problems are participating States experiencing in the implementation of the framework for the protection of this right?
- How can a balance be found between national security concerns, risks related to irregular immigration and the promotion of liberalized cross-border travel? What mechanisms can participating States use to facilitate legitimate cross-border travel?
- How can participating States ensure unhindered movement across borders and within their territory of persons representing OSCE structures, other intergovernmental bodies, and national or international non-governmental organizations as well as individuals engaged in monitoring the implementation of commitments undertaken in the human dimension of the OSCE or providing assistance to enhance their implementation?
- Do existing residency registration frameworks in OSCE States provide sufficient safeguards for the protection of freedom of movement and choice of place of residence?

**NHRIs and the role of civil society in the protection of human rights**

OSCE participating States have committed to “...facilitate the establishment and strengthening of independent national institutions in the area of human rights and the rule of law...” (Copenhagen 1990). This year marks the 20<sup>th</sup> anniversary of the UN principles relating to the status of national institutions for the promotion and protection of human rights (Paris Principles), which set out the minimum standards required by such institutions to be considered credible and to operate effectively. These include a clearly defined and broad-based mandate which takes into account universal human rights standards, autonomy from government, independence guaranteed by legislation, pluralism, adequate resources and adequate powers of investigation.

Most OSCE participating States have established NHRIs. However, in many countries NHRIs fall short of the criteria outlined in the Paris Principles. NHRIs may not enjoy full independence or may have restricted mandates. In some countries, resource constraints limit the ability of NHRIs to effectively protect the rights of all, and to undertake work on the promotion of human rights. NHRIs have in many cases been tasked with additional functions, including through mechanisms provided for by the Optional Protocol to the Convention against Torture and the Convention on the Rights of Persons with Disabilities. In such cases, adequate resources must be made available. NHRIs benefit from sharing experiences at the regional and international levels. In this regard, the establishment of a

Secretariat of the European Group of NHRIs in early 2013 is an important development. The exchange of experiences at the International Biennial Conference of the International Coordinating Committee of NHRIs on the *Human Rights of Women and Girls: Promoting Gender Equality* in November 2012 is also of importance.

The OSCE participating States have also committed “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).-Participating States have also emphasized "...the need for protection of human rights defenders...” (Budapest 1994). However, in a number of cases human rights defenders face obstacles to their work, and threats to their security.

Civil society contributes to the promotion and protection of human rights and fundamental freedoms. It advances respect for human rights at the local, regional, national and international levels. As the state bears the primary responsibility for the protection of human rights at the national level, there is a need for continuous interaction between state organs and civil society.

In recognition of the important and distinct contributions of NHRIs and civil society in the promotion and protection of human rights and fundamental freedoms, ODIHR works with these actors as partners, and works to empower and strengthen their capacity where relevant. ODIHR published a Handbook for NHRIs on Women’s Rights and Gender Equality in 2012, and facilitates training on this and other topics. In relation to human rights defenders, ODIHR has started the development of Recommendations on the protection of human rights defenders.

#### Questions that could be addressed:

- What are the current obstacles facing civil society organizations? How can these be overcome by state and civil society action?
- What mechanisms are in place for the protection of human rights defenders? How effective are these, and what are the main gaps?
- What are the main obstacles to the effective functioning of NHRIs in the OSCE region? What can be done to overcome these obstacles?
- How responsive have Governments been to recommendations by NHRIs? What can be done to ensure that recommendations are implemented in practice?

### **Human Rights Education**

Human rights education and training are aimed at promoting universal respect for all human rights and fundamental freedoms and contribute to the prevention of human rights violations and abuses. It is a strong tool for empowering every individual to stand up for one’s rights and the rights of others by building up knowledge, skills, understanding and attitudes in the area of human rights. Human rights education (HRE), which is a relatively new phenomenon, has undergone major evolution in the last two decades in the OSCE area and the world at large. The OSCE commitments recognize the fundamental character of human rights education, stressing the right of individuals to know their rights and emphasizing the need for access to human rights education of particular groups – young people, law enforcement officials, and other groups of learners. HRE is no longer associated only with teaching human rights in schools. It is now more widely available, both for young

people and adults and it takes place in a variety of environments, i.e. in informal and non-formal education settings.

In the OSCE participating States the need to include human rights as a separate subject, as part of the main carrier- subjects or to mainstream it in all educational efforts for the general public and for professional groups is generally well understood. However, many challenges remain to be addressed, including lack of expertise to build up effective human rights education for all, no proper assessment of the impact of HRE programs, treatment of the subject in a nominal rather than substantial way, which makes human rights seem abstract, as well as other issues, such as the overall poor educational staff training.

ODIHR works to make good practice in HRE accessible to all participating States. ODIHR has produced four sets of guidelines that aim to promote systemic and effective approaches to human rights education work. These include: Guidelines on Human Rights Education for Health Workers; Guidelines on Human Rights Education for Human Rights Activists; Guidelines on Human Rights Education for Law Enforcement Officials; and Guidelines on Human Rights Education for Secondary School Systems. The guidelines support the implementation of the relevant OSCE commitments as well as the United Nations World Programme for Human Rights Education in the OSCE area.

The session will provide an opportunity to review the recent work of the OSCE and ODIHR in the area of HRE. It would also help raise awareness of the existing good practice in HRE undertaken by states, civil society and other actors, such as NHRIs.

Questions that could be addressed:

- What are the main achievements of the implementation by the participating States of their key commitments in the area of human rights education and training?
- What challenges remain and how can these be addressed? What can the OSCE and ODIHR do in that regard?
- How can state institutions and non-governmental organizations co-operate effectively on human rights education?
- What good practices have been developed in devising and implementing comprehensive educational strategies to promote human rights?
- How can teaching about human rights contribute to improved mutual respect and understanding, and how can teaching about tolerance and non-discrimination contribute to the promotion of human rights and democratic values among the young generation?

**THURSDAY, 26 SEPTEMBER 2013**

**10 a.m. – 1 p.m.**

**WORKING SESSION 6**

**Specifically selected topic: Freedom of religion or belief**

Freedom of religion or belief is a central and long-standing human dimension commitment. Principle VII of the 1975 Helsinki Final Act commits participating States to “recogniz[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 Conference for Security and Co-operation in Europe (CSCE) process, the commitment to freedom of religion or belief was further elaborated upon and developed to become the most detailed and complete provision pertaining to religion or belief among international human rights instruments (see, e.g., Vienna Concluding Document 1989). Recent Ministerial Council decisions<sup>2</sup> 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 this regard, the OSCE Ministerial Council has encouraged participating States to seek the assistance of ODIHR and its Advisory Panel on Freedom of Religion or Belief (MC Decision 4/03, Maastricht).

Questions that could be addressed:

- What are the main issues or obstacles arising when participating States implement the commitments to ensure and promote freedom of thought, conscience, religion or belief?
- What measures can be undertaken to further support participating States in implementing their commitments? How can ODIHR assist participating States in this regard?
- 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?

**3–6 p.m.**

**WORKING SESSION 7**

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

OSCE participating States have committed themselves to “grant upon their request to communities of believers, practising or prepared to practice their faith within the constitutional framework of their States, recognition of the status provided for them in their respective countries” (Vienna 1989, para. 16.3). They have further committed to “ensur[ing] and facilitate[ing] the freedom of the individual to profess and practice a religion or belief,

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<sup>2</sup> 4/03 (Maastricht), 12/04 (Sofia), 10/05 (Ljubljana), 13/06 (Brussels), 10/07 (Madrid).

alone or in community with others, where necessary through transparent and non-discriminatory laws, regulations, practices and policies” (MC Decision 4/03, Maastricht).

Religious and belief communities continue to face restrictions to the right to access to legal personality. They have faced denials of requests for access to legal personality, and also face bans on unregistered activity. As a result, they may face fines or other forms of interference by the State in their community life, such as disruptions of prayer services, lack of legal protection, and lack of access to basic financial and other services. Religious and belief communities have also faced discrimination in obtaining access to higher forms of legal personality which favour, directly or indirectly, particular religious or belief communities over others in the granting of privileges associated with a higher status.

This session will focus on the responsibility of participating States to ensure respect for the right to non-discriminatory recognition of the legal personality of religious and belief communities. It will examine to what extent legislation in this area can be improved, and how the implementation of this commitment by national authorities can be enhanced.

Questions that could be addressed:

- What are the main challenges faced by religious and belief communities in obtaining recognition of their legal personality?
- What are some of the challenges associated with bans on unregistered activity of religious and belief communities?
- How can legislation and its implementation be improved to ensure non-discriminatory access to legal personality of religious and belief communities?
- How can state authorities charged with the registration of religious and belief communities ensure they facilitate their access to legal personality?
- How can religious and belief communities co-operate amongst themselves, and with governmental authorities and other non-governmental organizations, in advocating for the implementation of OSCE commitments in the area of recognition?
- How can ODIHR better assist participating States in ensuring their legislation in the area of recognition of religious and belief communities complies with OSCE commitments and other international standards?
- What steps should be taken by the participating States in order to create an environment conducive to the establishment of mechanisms of cooperation and dialogue between religious and belief communities to promote mutual respect and understanding?

**FRIDAY, 27 SEPTEMBER 2013**

<b>10 a.m.–1 p.m.</b>	<b>WORKING SESSION 8</b>
<b>3–6 p.m.</b>	<b>WORKING SESSION 9</b>

**Specifically selected topic: Freedom of assembly and association**

**Freedom of association**



The right to form and join groups with the aim of addressing issues of common concern is a fundamental feature of a participatory democracy. It allows everyone, including groups that are marginalized or otherwise underrepresented in elected bodies, to join together to promote their own interests, and to influence their governments and leaders. In the 1983 Madrid Document, the OSCE participating States committed to ensure the right of workers freely to establish and join trade unions, the right of trade unions freely to exercise their activities and other rights as laid down in relevant international instruments. In the 1989 Vienna Document, the participating States committed to “respect the right of their citizens to contribute actively, individually or in association with others, to the promotion and protection of human rights and fundamental freedoms.” More specifically, in the 1990 Paris Document, OSCE participating States reaffirmed that “...*without discrimination, every individual has the right to (...) freedom of association and peaceful assembly.*” The 1990 Copenhagen Document went even more into detail by stipulating the OSCE participating States’ 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*”.

The 2008 Ministerial Declaration reiterated that the exercise of this right may be subject to only such limitations as are provided by law consistent with state obligations under international law, and with international commitments. Nevertheless, obstacles to the full implementation of the right to freedom of association persist.

At the Supplementary Human Dimension Meeting (SHDM) on Freedom of Assembly and Association, which took place in Vienna on 8-9 November 2012, it was noted that associations require to register in order to be able to operate legally. At the same time, burdensome registration procedures often prevent associations from being able to register – in some cases, organizations are not registered as their name or scope are deemed by authorities to violate existing legislation, or due to unclear registration procedures. This issue has been raised in numerous ODIHR reviews on legislation or draft legislation regulating associations in individual OSCE participating States.

The registration of associations should be done in a non-discriminatory way, while ensuring that data submitted on organizations and their members is protected. Under no conditions should groups face particular obstacles in registering associations on the basis of the ethnicity, race, religion, sex, or any other status of their members.

Another challenge to the sustainability of non-governmental organizations in some OSCE participating States is the restrictive regulation of NGO access to foreign sources of funding. According to the Copenhagen Document 1990 NGOs are entitled to receive and utilize voluntary financial contributions from national and international sources as provided for by law.

Moreover, in the 1990 Copenhagen Document, the OSCE participating States undertook to “*encourage, facilitate and, where appropriate, support practical co-operative endeavours and the sharing of information, ideas and expertise among themselves and by direct contacts and co-operation between individuals, groups and organizations [...]* Such endeavours may cover the range of co-operation encompassed in the human dimension of the CSCE, including [...] *co-operative programmes and projects, [...] scholarships, research grants.*”

In this context, the recent report of the UN Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association stressed that *“[t]he right to freedom of association not only includes the ability of individuals or legal entities to form and join an association but also to seek, receive and use resources – human, material and financial – from domestic, foreign, and international sources.”*

In many OSCE participating States, unclear and vague laws and regulations governing NGO registration and dissolution often lead to arbitrary and differentiated application of the law. This presents yet another challenge, as it facilitates the discriminatory prohibition and/or dissolution of certain organizations. Among the recommendations made by participants in the 2012 Supplementary Human Dimension Meeting on Freedom of Assembly and Association was a recommendation that *“OSCE participating States [...] refrain from creating possibilities for the arbitrary dissolution and refusal of registration of associations, and [...] also refrain from the presumption of liability of NGOs, and instead rely on criminal laws for individual liability, if necessary.”*

Challenges also arise in connection with combating terrorism financing as an overbroad interpretation of relevant policy guidelines opens a door to arbitrary and discriminatory targeting of legitimate civil society organizations.

Questions that could be addressed:

- How can the full implementation of the right to freedom of association be ensured in practice, while meeting legitimate transparency and accountability needs? What legislative, regulatory and self-regulatory options are available to achieve this?
- What are the gaps or deficiencies in the legislative and regulatory treatment of NGOs that participating States have to address?
- What are the existing approaches to NGO access to sources of funding in the OSCE region? What challenges do NGOs face and how can they be addressed? What good practices have been accumulated to date?
- What steps can be taken to prevent arbitrary and discriminatory application of NGO registration and dissolution requirements? What good practices are available? What challenges still remain?
- How can the OSCE, and ODIHR in particular, assist participating States in improving their compliance with OSCE commitments related to freedom of association and civil society participation?

## **Freedom of assembly**

Freedom of peaceful assembly is a cornerstone of a vibrant and pluralistic democracy. It protects the right of individuals and groups to assemble in public (and private) places for a common expressive purpose, and is closely related to such fundamental rights as freedom of expression and the right to participate in public affairs.

In the 1990 Copenhagen Document, the participating States reaffirmed that *“everyone will have the right of peaceful assembly and demonstration. Any restrictions which may be placed on the exercise of these rights will be prescribed by law and consistent with international standards.”* Similarly, in the 1990 Paris Document, the participating States affirmed that *“without discrimination, every individual has the right to [...] freedom of association and peaceful assembly.”*

Legislation regulating assemblies continues to be restrictive in many OSCE participating States. Matters of concern include permission procedures (as opposed to notification procedures), blanket time and place restrictions, content-based restrictions, and excessive sanctions for wrongdoing (in particular sanctions imposed on all participants of assemblies for individual violations of the law).

Importantly, the State's role in ensuring full implementation of the right to peaceful assembly extends beyond allowing assemblies to proceed – rather, the State bears an obligation to facilitate and protect peaceful gatherings, and based on international standards, there is a clear presumption in favour of holding assemblies. Relevant state authorities, including police and federal/local administration, should remain open to co-operation with the assembly organizers (though negotiations between both sides should not oblige assembly organizers to accept suggestions made by authorities). Human-rights compliant policing is central to the concept of facilitation, and it largely falls on the police to ensure that any assembly, as long as it remains peaceful, is facilitated. This includes facilitating counter-demonstrations, which means that one or several assemblies should be able to proceed simultaneously within sight and sound of each other, as well as enabling assemblies that convey controversial or unpopular messages, or assemblies that do not conform to applicable procedural requirements; this is often the case with spontaneous assemblies. Other important aspects in this context are the question of preventive detention to stop targeted individuals from taking part in an assembly, as well as “kettling” of large crowds, both of which raise concerns from a human rights point of view. Police authorities should avoid the use of force in relation to peaceful assemblies; if applied, so should be done in compliance with proportionality standards, and only as a last resort, if other measures have proved unsuccessful. Cases of excessive use of force should be investigated swiftly and independently, and individual police officers shall be held accountable for violations of the law.

The development of new technologies, in particular social networks, has both created new opportunities for the exercise of freedom of assembly, and brought about new challenges. Social media have greatly facilitated and accelerated the spreading of information about planned assemblies, and the mobilizing of participants. This, in turn, has contributed to the emergence of an entirely new phenomenon, namely assemblies without an identifiable organizer or organizers (sometimes also described as “leaderless assemblies”). As these grassroots-based events – be they planned or spontaneous – lack identifiable counterparts for discussion, this new trend presents a formidable challenge to legislators as well as to the police in many participating States, thus requiring further discussions on how to adapt legislation and policy approaches.

ODIHR has considerable expertise in the area of freedom of assembly, primarily via its Panel of Experts on Freedom of Peaceful Assembly, which it has consistently made available to the OSCE participating States and civil society. The *OSCE/ODIHR-Venice Commission Guidelines on Freedom of Peaceful Assembly* provide practical guidance for policymakers and civil society and interpret OSCE commitments and other international standards in the area of freedom of peaceful assembly.

ODIHR's monitoring of freedom of peaceful assembly, the first cycle of which was completed in 2012, is designed, inter alia, to identify gaps and deficiencies in facilitating assemblies and to provide constructive recommendations for participating States. ODIHR, in collaboration with the OSCE Transnational Threats–Department's Strategic Police Matters Unit, has started the development of a Human Rights Training Guide to Policing

Assemblies, in response to the challenges observed and aimed at strengthening the policing of assemblies in compliance with human rights standards in OSCE participating States.

Questions that could be addressed:

- How can legislation regulating assemblies be rendered less restrictive across the OSCE region, to ensure compliance with international human rights standards and OSCE commitments?
- How can the exercise of freedom of peaceful assembly be facilitated in participating States, in particular as far as appropriate policing of assemblies is concerned? What are some good practices?
- What specific challenges do State authorities face in facilitating peaceful spontaneous and/or un-notified assemblies, especially in cases where there are no identifiable organizers? What good practices are available both in terms of legislative and regulatory frameworks and implementation practices?
- What oversight and accountability mechanisms are in place in participating States to prevent and prosecute, as appropriate, unnecessary or excessive use of force in policing assemblies?
- What are the capacity-building needs of police tasked with assembly policing in the OSCE participating States and how are they addressed?
- What opportunities has the proliferation of social media created in terms of the exercise of the right to freedom of peaceful assemblies? What are the attendant challenges, and how can they be met?
- How can the OSCE, and ODIHR in particular, assist the participating States in improving their compliance with the OSCE commitments on freedom of peaceful assembly?

**MONDAY, 30 SEPTEMBER 2013**

**10 a.m.–1 p.m.**

**WORKING SESSION 10**

**Humanitarian issues and other commitments I:**

- Combating trafficking in human beings
- Implementation of the OSCE Action Plan to Combat Trafficking in Human Beings

This year marks a decade since the adoption of the OSCE Action Plan to Combat Trafficking in Human Beings. Adopted in 2003, it followed the landmark 2000 UN Convention against Transnational Organized Crime and its supplementary Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, but preceded the 2005 Council of Europe Convention on Action against Trafficking in Human Beings (No. 197). At the time, the OSCE Action Plan manifested the commitment of the participating States to undertake concrete measures to tackle the problem of trafficking while ensuring the respect for human rights of victims in that process.

The OSCE Action Plan to Combat Trafficking in Human Beings remains a strategic document that guides the OSCE anti-trafficking response in terms of prosecution of offenders, prevention of the crime and protection of its victims. The OSCE participating

States elaborated a clear set of obligations with the aim to combat this heinous crime in all its forms.

Since 2003, however, trafficking in human beings continued to evolve into a serious transnational threat entailing gross human rights violations. Despite the efforts at the international and national levels there are still challenges in the identification of this crime. Due to the cross-border nature of organized criminal networks active in the field of trafficking, international law enforcement and judicial co-operation are vital for an effective criminal justice response.

A comprehensive human rights-based and victim-centred approach has been at the core of the OSCE's response to the problem of trafficking in human beings. The OSCE/ODIHR developed and promoted the concept known today as the National Referral Mechanism (NRM) – a framework for co-operation and co-ordination between state and non-state actors in identifying, referring and assisting victims of trafficking. The recommendation to participating States to establish NRMs stems from the OSCE Action Plan (MC Dec. No. 2/03, Annex V.3.1). This concept was further supported by a practical handbook - *National Referral Mechanisms: Joining Efforts to Protect the Rights of Trafficked Persons* – developed by ODIHR in 2004. Today the NRM concept has been engraved in the 2010 UN Global Plan of Action to Combat Trafficking in Persons (A/RES/64/293, para.28), and in the 2012 EU Strategy towards the Eradication of Trafficking in Human Beings 2012–2016 (COM(2012) 286, 2.1(1)).

The OSCE has taken on a lead role in the anti-trafficking field by laying down the principles and creating monitoring mechanisms. The 2003 Maastricht Ministerial Council established the post of the OSCE Special Representative on Trafficking in Human Beings to assist the participating States in the implementation of commitments and recommendations proposed by the OSCE Action Plan. Since then, in April 2004, the UN appointed its Special Rapporteur on trafficking in persons, and, in December 2010, the European Commission appointed the EU Anti-trafficking Co-ordinator.

Ten years since the adoption of the OSCE Action Plan, this session will allow the OSCE institutions and participating States to take stock of the implementation of the Action Plan to date, considering that the practice today shows shortfalls in all three areas of the Action Plan – Prevention, Protection and Prosecution, and in particular with regard to guaranteeing victims' rights in terms of access to assistance and access to justice and effective remedies, including compensation. The session will provide an opportunity to discuss the outcome of the High-Level Conference on *Strengthening the OSCE response to Trafficking in Human Beings* in Kyiv in June 2013, which has set the ground for the adoption of an Addendum to the Action Plan that would update and enrich the 2003 Action Plan and subsequent Ministerial Council decisions, declarations and recommendations.<sup>3</sup>

#### Questions that could be addressed:

- What are the issues in the field of combating trafficking in human beings that are not covered by the OSCE anti-trafficking commitments, in particular by the 2003 Action Plan, or areas where increased attention is needed?
- How can the OSCE and participating States strengthen the implementation of the 2003 Action Plan? What are the obstacles to more vigorous implementation of its recommendations at the national level?

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<sup>3</sup> See CIO.GAL/114/13/Corr.1\*, 26 July 2013.

- What good practices exist in combating trafficking in human beings?
- What are the most efficient ways to enhance international cooperation with a view to strengthening response to this crime in the OSCE area?

**3–6 p.m.**

**WORKING SESSION 11**

**Democratic institutions, including:**

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

**Democracy at the national, regional and local levels**

In the Copenhagen Document of 1990, the OSCE participating States agreed on a number of commitments for the protection of fundamental freedoms, human rights and the rule of law. These commitments relate to nurturing and developing democratic institutions on all levels, national, local and regional. The participating States have noted the importance of considering local government (including decentralization and the principles of subsidiarity), while recognizing the diversity of political systems across the OSCE region (Helsinki 1992).

In order for participating States to meet OSCE commitments on political pluralism and multi-party democracy, it is recognized that governance needs to move closer to citizens and touch on all parts of society. Democracy in its true essence can only be achieved through meaningful and inclusive democratic participation. A pre-requisite for genuine democratic participation is to ensure that men and women are equally encouraged, entitled and enabled to participate in political life. Likewise, youth need to feel empowered and have faith in democratic institutions, and be motivated to participate in political processes. Moreover, mechanisms must be present that provide for the participation of migrants and other marginalized groups. Many of these issues are not being properly addressed in participating States today, resulting in decreasing trust among citizens towards traditional political parties, democratic institutions, and the creation of new forms of political movements.

One way to implement these commitments and to assist participating States to strengthen democracy at all levels is to support the development of key democratic institutions, namely political parties. Well-developed laws contribute to effective and democratically governed political parties that are transparent, accountable and non-discriminatory. To this end, the OSCE/ODIHR has together with the Council of Europe's Venice Commission published *Guidelines on Political Party Regulation*. Recognizing the role of political parties as the "gatekeepers" of democracy, including women's political participation, the *Guidelines* also highlight good practices in enhancing internal party democracy and gender equality within political parties.

Regional and national parliaments remain the key forum through which citizens channel their needs, concerns and policy priorities. To this end, parliaments, too, should function in compliance with OSCE commitments on pluralism, transparency, and democratic and accountable government. The ODIHR *Background Study: Professional and Ethical Standards for Parliamentarians* provide practical guidance to participating States on introducing and reforming codes of ethics for parliamentarians.

By supporting local experts, commenting on draft laws and providing technical assistance, ODIHR has been working to assist participating States to advance democracy at all levels.

Questions that could be addressed:

- What are the key challenges participating States face in ensuring political pluralism and inclusive democratic governance at local, regional and national levels?
- How can legislation, regulations and codes of conduct contribute to increased transparency and accountability of political institutions such as political parties and parliaments?
- How can the OSCE – particularly ODIHR, other institutions and field operations – support participating States in ensuring greater political pluralism at all levels of government?
- How can participating States contribute to increasing women’s political participation, thus supporting increased gender equality?
- How can participating States contribute to an increased number of youth active in political life? How can one create the link between youth active in civil society organizations and political parties and parliaments?
- How can political parties improve communication with youth who are no longer politically engaged within the framework of political parties but within “new” forms of political movements?

### **Citizenship and Political Rights**

Being a citizen of a state is a prerequisite for benefiting from certain political rights including the right to vote, the right to freedom of speech, and the right to freedom of movement. This is prescribed in the UN Universal Declaration of Human Rights and can be found in the constitutions of many democratic states. By recognizing that everyone has the right to a nationality and that no one should be deprived of his/her nationality arbitrarily, the OSCE participating States have underlined that all aspects of nationality should be governed by the process of law. Participating States have also made commitments on not to increase statelessness (Helsinki 1992). In 1999 OSCE participating States committed to ensuring that everyone can exercise the right to a nationality and to further develop the international protection of stateless persons (Charter for European Security 1999). Particular attention was paid to the need to address discrimination in the field of citizenship. In the Geneva Document of 1991, the OSCE participating States affirmed that persons belonging to national minorities will enjoy the same rights and have the same duties of citizenship as the rest of the population. However, despite a clear set of commitments challenges still persist in the field of citizenship and negatively influence the exercise of political and other rights.

The rights of citizens to exercise their political rights are outlined in the Copenhagen Document of 1990, which explicitly refers to “citizens” taking “part in the governing of their country”. Increasing political participation and the inclusion of citizens in decision-making processes alike should be a central objective in creating a democratic society. From a human rights perspective, political participation also becomes an issue of equal opportunities. This is an important issue to address, as a more inclusive society allows the views and perspectives from otherwise underrepresented persons to be heard. The potential for non-citizens to become active members of their societies can thus be further explored. Given the increased mobility of people across the OSCE region, it is imperative that these issues are afforded sufficient attention.

Questions that could be addressed:

- Are participating States meeting their commitments concerning citizenship and political rights?
- What is the relationship between citizenship and the extent of the enjoyment of specific political rights?
- How can the OSCE, its institutions and field operations better assist participating States to fully implement their commitments in the area of citizenship and political rights?
- What good practices exist for the participation of resident non-citizens in civic and political life (in particular at the local or regional level) and how could these practices be effectively shared among the OSCE participating States?
- How can participating States better ensure that their citizens exercise their political rights?
- Which outreach strategies have been used by participating States to make non-citizens aware of their political rights?

**TUESDAY, 1 OCTOBER 2013**

**10 a.m. – 1 p.m.**

**WORKING SESSION 12**

**Specifically selected topic: Democratic elections and election observation – sharing best practices**

As a community of States committed to the respect for human rights, democracy, and the rule of law, the OSCE has emphasized democratic elections as a key pillar of long-term security and stability. All 57 participating States have committed to upholding several important principles of democratic elections: universality, equality, transparency, secrecy of the vote, accountability, fairness, and freedom. These principles are enshrined in the Copenhagen Document which was agreed to by all participating States in 1990. In this and other OSCE documents such as MC Decision 19/06, the OSCE participating States recognize that “independent, impartial and professional” election observation is a useful and important undertaking that can promote transparency and accountability and enhance public confidence in an electoral process. Deploying observers demonstrably supports democratic processes and can assist States in their aim to conduct genuinely democratic elections in line with OSCE commitments and other international standards.

In acknowledging the importance of democratic elections as one of the key mechanisms for the formation of democratic institutions, the participating States have tasked ODIHR with observation of electoral processes on the basis of a comprehensive long-term methodology. In implementation of its mandate, ODIHR has to date observed or assessed elections in 56 of the 57 OSCE participating States (with only the Holy See outstanding). In the course of its observation activities, ODIHR continues to note varied degrees of implementation of OSCE commitments and other standards for democratic elections. It also observes the development and application of various approaches by the OSCE participating States in election conduct and regulation. Both commendable practices, aimed at upholding and furthering citizen’s election-related rights, and practices that have the potential to



negatively impact or infringe on such rights, are noted. This session will provide an opportunity to review the progress in the implementation of commitments on the part of participating States over the course of the past year and to consider examples of good practice.

Questions that could be addressed:

- How are OSCE participating States meeting their commitments to conduct democratic elections? What are the main challenges to meeting commitments?
- What could assist the participating States in meeting their commitments? What types of assistance and support by ODIHR are particularly useful in supporting the conduct of democratic elections?
- What needs to be done to further strengthen the ability of ODIHR to conduct its election observation activity in independent, impartial and professional manner?
- What are the evolving and established good practices in the area of elections?
- How could good practice exchanges among participating States be further stimulated?
- How can ODIHR continue to engage and exchange views constructively on election-related activities?

**3 p.m. – 6 p.m.**

**WORKING SESSION 13**

**Specifically selected topic: Democratic elections and election observation – sharing best practices** (continued)

**Engagement and assistance to OSCE participating States on the implementation of recommendations**

While participating States have repeatedly underscored the importance and value of election observation, with comprehensive reports and recommendations being its main deliverables, States have also committed themselves to follow up promptly on the OSCE/ODIHR's assessment and recommendations (Istanbul summit 1999). It could serve to maximize the utility of election observation.

Over the past several years, ODIHR has been intensifying its efforts to work with participating States to further the implementation of the recommendations contained in election mission final reports. Visits to present these reports and to discuss the possibilities for further collaboration in the time period between elections has evolved into a regular practice. In 2013, six such visits have taken place, including to Belarus, Georgia, Montenegro, Ukraine, Lithuania, and the United States of America. In addition to visits for presenting reports, as part of follow-up activities ODIHR also regularly conducts reviews of election legislation, participates in roundtables and seminars, and supports States in various activities aimed at implementing its recommendations in line with OSCE commitments.

While ODIHR has been increasingly available and has engaged in follow-up activities more systematically, the responsibility for the implementation of recommendations ultimately rests with the OSCE participating States. In the Ministerial Council Decision 19/06, the States agreed that “participating States themselves are responsible for the effective

implementation of their commitments, undertaken in the OSCE. The OSCE/ODIHR, in this respect, plays an important role in assisting them.” Follow-up to recommendations is, therefore, a process which is a commitment and responsibility of OSCE participating States, as agreed upon by the participating States in the 1999 Istanbul Summit Declaration, as it is their responsibility to conduct elections that are in line with OSCE Commitments.

Questions that could be addressed:

- How can follow-up activities and post-election engagement be enhanced in order to more effectively assist participating States in follow-up to ODIHR recommendations?
- What forms of cooperation between participating States and ODIHR better serve follow-up activities concerning the implementation of ODIHR recommendations?
- What are good practices in following up on ODIHR recommendations?
- Which follow-up activities can benefit most from active involvement by ODIHR?
- How can reporting on the progress of follow-up to ODIHR recommendations be maintained and strengthened?
- How could the co-operation between ODIHR and participating States and follow-up efforts be maintained between elections? What would be the most effective forms of engagement?

**WEDNESDAY, 2 OCTOBER 2013**

**10 a.m.–1 p.m.**

**WORKING SESSION 14**

**Rule of law I, including:**

- Democratic lawmaking;
- Independence of the judiciary;
- Right to a fair trial.

**Democratic lawmaking**

The last decades have witnessed numerous efforts on the part of OSCE participating states to improve the quality of their legislation and bring it in line with OSCE commitments and other international standards. These efforts take place against the background of persistent criticism of the quality and perceived ineffectiveness of certain enacted legislation as well as the volume of adopted legislation, its complexity and the excessive burden it inflicts on the public and on state administration. Sometimes, political priorities and considerations prevail over other considerations when debating and enacting legislation on substantive issues.

The scrutiny of individual laws often reveals deep-seated weaknesses in a country’s law-making system. Laws adopted with the best intentions in response to pressing social needs may prove inefficient or ineffective because of underlying deficiencies in the system through which legislation is being prepared.

Successful lawmaking processes include the following components: a proper policy discussion and analysis; an impact assessment of the proposed legislation (including possible budgetary effects); a legislative agenda and timetables; the application of clear and

standardized drafting techniques; wide circulation of the drafts to all those who may be affected by the proposed legislation; and mechanisms to monitor the efficiency and implementation of legislation in real life on a regular and permanent basis.

Further, an effective and efficient lawmaking system requires a certain degree of openness and transparency within the government and the parliament. OSCE participating States are under the obligation to make legal norms accessible: the Copenhagen Document (1990), par. 5.8 provides *that “legislation, adopted at the end of a public procedure, and regulations will be published, that being the condition for their applicability”, and that “Those texts will be accessible to everyone”.*

The proper organization of public consultations facilitates better acceptance and support from those who, directly or indirectly, may be affected by the proposed legislation, as well as from the wider population. It also helps in achieving the aims and objectives of proposed legislation in a more efficient and effective way, and allows States to be more responsive to changing circumstances and to minimize unwanted side effects.

Recognizing the potential benefits of public consultation, many governments have now devised policies on how to conduct such consultations, including the timing of consultation exercises, how long an exercise should last, and the transparency of the consultation process. While public consultations can take place at an early stage, as part of policy discussions prior to the drafting of a law, they may also, or additionally, take place once draft legislation has been prepared.

Broad and, when required, targeted consultations with a wide variety of actors can increase the probability that adopted legislation yields a certain consensus and is, thereby, properly implemented. Appropriate interaction with civil society and various interest groups is particularly important, as is the ability to take their views and interests into consideration while making decisions regarding policies to pursue and laws to enact. New technologies and communication strategies can facilitate and enhance these consultation activities.

This session will focus on what measures OSCE participating States should undertake in order to ensure a more effective and efficient regulatory framework governing lawmaking, while taking the principles of transparency and inclusiveness duly into consideration.

Questions that could be addressed:

- What measures shall OSCE participating States take in order to enhance public awareness of consultations related to law-making and provide better opportunities for the public to participate in such consultations, both online and offline?
- What measures should OSCE participating States undertake in order to streamline an effective consultation process? How should the process be organized in order to facilitate equitable access to the consultations? What feedback mechanism should the OSCE participating States introduce in order to keep the process transparent and open to scrutiny?
- What measures should OSCE participating States undertake in order to develop the government's and the parliament's capacities for improving management of government consultations across departments, and parliamentary structures respectively?

## **Independence of the judiciary**

The independence of the judiciary is a necessary condition for courts performing their function of ensuring that no one is above the law. It is therefore at the core of a democratic order and the rule of law. Participating States have long recognized its importance, and reaffirmed their commitment to ensure judicial independence in a Ministerial Council Decision on “*Further strengthening the rule of law in the OSCE area*” (Helsinki 2008). In Moscow in 1991, participating States committed themselves to respect relevant international standards and to ensure that the independence of the judiciary is guaranteed by constitution or law and respected in practice. Whereas often constitutions and laws are in keeping with these commitments, respect for the independence of judges and courts in practice is not always guaranteed. Judges continue to experience attempts at undue influence. Executive control of the judiciary in some OSCE participating States deprives victims of human rights violations of effective legal remedies, which undermines public trust in the judiciary and risks generating sentiments of injustice in society.

Checks and balances between the different branches of power translate into important rules on who governs and administers the judiciary, and how these functions are fulfilled. These rules, including those on the composition and competencies of judicial councils, need to be carefully calibrated in a democratic society to avoid violations of the independence of the judiciary. Systems for selecting and promoting judges should enable a fair and transparent procedure applying clear criteria to ensure that judges are appointed at all levels according to their merit, and not because of their political affiliation or other circumstances, including corruption. Systems for holding judges accountable and evaluating their performance are indispensable to ensure their democratic legitimacy and public trust in the judiciary. Nevertheless, such systems must not undermine judicial independence.

ODIHR’s *Kyiv Recommendations on Judicial Independence in Eastern Europe, South Caucasus and Central Asia* contain specific suggestions on the above issues and others, including: judicial administration with a focus on judicial councils and the role of court chairs; judicial selection and appointment; and accountability of judges. In particular, the latter part includes suggestions on evaluating the performance of judges, as well as that of prosecutors. Participating States are encouraged to consider these policy suggestions to improve legislation and practice for achieving greater independence of the judiciary. In fulfilling its role to assist participating States more efficiently in strengthening judicial independence, ODIHR facilitates the exchange of expertise and provides technical assistance for the benefit of participating States that express an interest to engage in further strengthening the independence of their judiciaries.

### Questions that could be addressed:

- Which bodies are involved in administering the judiciary, including in areas such as selecting, evaluating performance of, promoting and disciplining judges? How are these bodies composed and what are their respective tasks? Where special sub-commissions exist, how independent are they from the general judicial council?
- How is transparency ensured in procedures for selecting, promoting and evaluating the performance of judges?
- How is a representative and pluralistic composition of the judiciary ensured?
- What are good practices in the area of evaluating judges’ performance while at the same time respecting their independence?

- How can the OSCE further assist participating States in efforts to strengthen judicial independence?

### **Right to a fair trial**

The OSCE participating States committed to ensure the right to a fair and public hearing within a reasonable time before an independent and impartial tribunal, including the right to present legal arguments and to be represented by legal counsel of one's choice (Vienna 1989). Participating States have solemnly declared that fair trial rights are among the elements of justice which are essential to the full expression of the inherent dignity and of the equal and inalienable rights of all human beings (Copenhagen 1990).

The notion of fair trial encompasses various procedural and substantive rights to be guaranteed by the state to all individuals. One of such rights is the presumption of innocence. Another right is the right to legal assistance, and particularly, to be provided legal counsel free of charge in case the interests of justice so require for those who do not have sufficient means to afford legal assistance (Copenhagen 1990). The provision of legal assistance also constitutes a fundamental tenet of the principle of access to justice. Competent and effective legal assistance must be provided independently and be available throughout the proceeding. Therefore, the assignment of a lawyer is not merely a procedural obligation but a substantive guarantee where the legal counsel can freely and effectively exercise his/her functions for properly assisting his/her client. In criminal cases, the right to legal assistance applies from the very moment of police interrogation. Recurring concerns relate to frequent instances where defence lawyers are prevented from properly performing their role due to undue pressure from the authorities or to an inadequate working environment.

Among other important elements is the right of the person arrested or detained on a criminal charge to be brought promptly before a judge or other officer authorized by law, so that the lawfulness of his arrest or detention can be decided.

Importantly, fair trial guarantees are not limited to criminal proceedings. Increasing attention is given to the commitment of OSCE States to ensure effective means of redress against administrative decisions to guarantee respect for fundamental rights and ensure legal integrity, and the extent to which States succeed in providing for judicial review of administrative regulations and decisions (Copenhagen 1990, Moscow 1991).

Participating States have agreed to accept as a confidence building measure the presence of observers sent by participating States and representatives of non-governmental organizations and other interested persons at proceedings before courts as provided for in national legislation and international law (Copenhagen 1990). Trial monitoring has proven to be a valuable tool to collect objective information on the implementation of fair trial rights enabling OSCE field operations and ODIHR to supply targeted recommendations and assistance for justice reform efforts. In addition to monitoring of criminal and civil proceedings, in recent years, monitoring of judicial review in administrative proceedings has provided valuable insight and support for reform. For this purpose, ODIHR has developed the Handbook for Monitoring Administrative Justice. The Handbook is intended to be used complementary to ODIHR's Trial Monitoring – A Reference Manual for Practitioners (revised edition) and ODIHR's Legal Digest of International Fair Trial Rights.

Questions that could be addressed:

- What are the main obstacles to access to justice and to legal assistance? What measures could participating States adopt to address them? Particularly, how could participating States increase the chances for competent and effective legal assistance?
- Is the right to legal counsel ensured to all defendants and is this right available from the time of police interrogation?
- In case the interest of justice so requires, can an indigent or particularly vulnerable defendant have access to free legal aid? What best practices can be shared with States on provision of legal aid? What models of legal aid have been most effective?
- Is the independence of the legal profession recognized in law and in practice? What measures do bar associations take to defend their members from political interference?
- Is judicial review of administrative regulations and decisions available to ensure the right to an effective means of redress?
- What mechanisms are in place in the participating States to ensure that no one is held in detention arbitrarily, unlawfully, incommunicado, without access to a lawyer or without remedy?

**3–6 p.m.**

**WORKING SESSION 15**

**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**

The OSCE participating States have made a number of commitments regarding the issue of capital punishment (Vienna1989, Copenhagen1990, Helsinki 1992 and Budapest1994). In particular, participating States have committed to exchanging information on the question of the abolition of the death penalty, to make available to the public information regarding the use of the death penalty, to keep the question of capital punishment under consideration and to co-operate on the issue with relevant international organizations.

Developments since last year's reporting at the HDIM confirm the global trend towards abolition of the death penalty, including in the OSCE area. A number of participating States expressed their strong support for a global trend towards abolition of the death penalty in the framework of the World Congress against the Death Penalty, which took place in June 2013 in Madrid.

Questions that could be addressed:

- What further measures can be taken to advance co-operation among the OSCE participating States and relevant international organizations on the issue of the death penalty?

- What further measures can be taken to make available to the public information regarding the use of the death penalty?
- Have States that retain the death penalty considered the implementation of humane alternatives to the death penalty?
- What are some of the experiences of OSCE participating States that have a moratorium on executions in place that can be shared?
- Which relevant international safeguards and standards are to be strengthened and addressed?

## **Prevention of torture**

OSCE participating States have made a series of commitments to end torture. These commitments are strong and unequivocal. In the Vienna Document of 1989, participating States committed to prohibit and take effective measures to prevent and punish torture. The absolute nature of the prohibition of torture is also reflected in the Copenhagen Document of 1990. In Budapest in 1994, participating States strongly condemned all forms of torture as one of the most flagrant violations of human rights and human dignity. More recently, in Ministerial Council Decision 12/05, participating States were urged to give early consideration to signing and ratifying the UN Optional Protocol to the Convention Against Torture (OPCAT), and in Athens in 2009, a Ministerial Declaration pledged to uphold the absolute prohibition of torture and other cruel, inhuman or degrading treatment or punishment as set forth in the Convention, to implement fully and in good faith its provisions, and to act in full conformity with all its principles. In addition to OSCE commitments, OSCE participating States have an obligation under international law to prohibit torture.

While participating States have taken some steps to combat torture, the promise to root out torture remains unfulfilled. Legal frameworks in some countries do not comply fully with international standards. In other cases, laws are not fully implemented, and perpetrators are not held responsible. Institutional practices such as reliance on confessions or admission of information extracted under torture in courts continue to undermine efforts to eliminate torture. While National Preventive Mechanisms (NPMs) have been established, in many cases they have limited resources and capacity, or may lack full access to places of detention. In addition, the UN Committee against Torture has emphasized the importance of the right to redress, including restitution, compensation, satisfaction and guarantees of non-repetition.<sup>4</sup>

ODIHR undertakes various programs to raise awareness of the prohibition of torture, and its prevention. Upon request, ODIHR supports the establishment and functioning of NPMs under OPCAT; provides legislative assistance; organizes and participates in awareness-raising events, conferences and training on torture prevention; and provides expertise on building the institutional capacity of NPMs.

### Questions that could be addressed:

- Given the broad and unequivocal consensus against torture, what are the main reasons for the persistence of torture in the OSCE region? How can these be addressed?

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<sup>4</sup>General Comment 3, December 2012

- What types of monitoring mechanisms, at the national, regional and international levels, have proven effective? How can these be replicated?
- How can participating States guarantee the right to redress? What challenges and good practices exist in the OSCE region in this regard?
- How can ODIHR's programmes and expertise in such areas as NHRIs, human rights education and training, and protection of human rights while countering terrorism assist participating States in meeting their commitments to combat torture?

### **Protection of human rights and fighting terrorism**

In the 2012 OSCE Consolidated Framework for the Fight against Terrorism, the OSCE participating States have reaffirmed that the OSCE cross-dimensional and comprehensive approach to security is well-suited to address challenges posed by terrorism. They have reiterated their commitments to take all measures needed to combat terrorism in compliance with the rule of law and all obligations under international law, including international human rights standards. They have emphasized again that terrorism should not be identified with any nationality or religion and that efforts to fight it are not aimed against any religion or people. The Consolidated Framework thus reflects the long-standing approach of the OSCE participating States (2001 OSCE Bucharest Plan for Combating Terrorism; 2002 OSCE Charter on Preventing and Combating Terrorism) which affirms that responses to the threat of terrorism must not unlawfully infringe upon, damage or destroy the very standards, principles and values of human rights, the rule of law and pluralistic democracy.

Effective counter-terrorism measures and the protection of human rights are not conflicting goals but complementary and mutually reinforcing objectives which must be pursued together as part of states' duty to protect individuals within their jurisdiction against terrorism. Genuine security can only be achieved where counter-terrorism measures adopted by states are effective, proportionate and respectful of human rights and the rule of law in order to ensure that their implementation does not undermine their very purpose, which is to protect and maintain a democratic society.

Many human rights and fundamental freedoms have been impacted by counter-terrorism strategies and practices. The right to be free from torture and cruel, inhuman or degrading treatment or punishment is, for example, absolutely protected, yet continues to be debated. Counter-terrorism measures and practices may also undermine the right to life, the right to a fair trial and the right to liberty and security of the person which includes, *inter alia*, a prohibition on arbitrary or unlawful 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. The enjoyment of the rights to equal treatment and non-discrimination, to peaceful assembly and freedom of association, the respect for private and family life, freedoms of expression and of religion or belief may also be put at risk in the counter-terrorism context.

#### Questions that could be addressed:

- What steps are being taken by participating States to ensure that:
  - counter-terrorism legislation and practices respect human rights and fundamental freedoms and that any limitations are legitimate and proportional?



- counter-terrorism practices do not violate the right to life, the absolute prohibition of torture and other ill-treatment, including the principle of *non-refoulement*, the right to liberty and security and fair trial standards?
- efforts to prevent terrorism are human rights-compliant?
- How can accountability for counter-terrorism measures be guaranteed and strengthened?
- With promotion and protection of human rights and fundamental freedoms in the context of counter-terrorism measures being one of the “strategic focus areas for OSCE counter-terrorism activities” in the 2012 OSCE Consolidated Framework for the Fight against Terrorism, how can ODIHR further assist the OSCE participating States in fulfilling the commitments in this area?

## THURSDAY, 3 OCTOBER 2013

10 a.m.–1 p.m.

WORKING SESSION 16

### **Humanitarian issues and other commitments II, including:**

- Roma and Sinti Issues, including Implementation of the OSCE Action Plan on Improving the Situation of Roma and Sinti;
- Migrant workers, the integration of legal migrants;
- Refugees and displaced persons;
- Treatment of citizens of other participating States.

### **Roma and Sinti Issues, including: Implementation of the OSCE Action Plan on Improving the Situation of Roma and Sinti**

Ten years ago the OSCE participating States adopted the *Action Plan on Improving the Situation of Roma and Sinti within the OSCE Area* (OSCE Ministerial Council Decision No. 3/03). With this decision the OSCE participating States were pioneering a comprehensive policy response to the vicious cycle of social exclusion and societal marginalization of Roma and Sinti and to halt the discrimination and racism against members of these minority groups across the OSCE region. Following a stock taking process by ODIHR with the *2008 Status Report on the Implementation of the Roma and Sinti Action Plan*, the participating States recognized the need to enhance efforts to implement the Action Plan in Ministerial Council Decision No. 6/08 and to enhance efforts to ensure Roma and Sinti sustainable integration in Ministerial Council Decision No. 8/09.

To mark the tenth anniversary of the OSCE Action Plan on Roma and Sinti, the session will review progress in policy implementation and its concrete results. ODIHR is preparing the second edition of the Status Report which is based on responses to the ODIHR questionnaire from over 40 OSCE participating States. The input from the governments demonstrate a richness of policy approaches and model examples to address equal opportunities and non-discrimination for Roma and Sinti men and women in key areas such as education, employment, health, housing and their public and political participation across the OSCE region.

Moreover, it demonstrates that increased funding has been made available for policy measures targeting Roma and Sinti integration, including funding from the European

Union for its Member States and for EU candidate or potential candidate countries. These positive developments have not yet resulted in significant improvements overall, of the situation of Roma and Sinti in the OSCE area. Therefore, the session will provide space for further discussion why satisfactory results are not reached by participating States and explore means and effective tools to overcome the still existing obstacles. The participating States may use the HDIM to further update on their achievements in realizing the integration of Roma and Sinti.

Questions that could be addressed:

- What good practices exist for the successful integration of Roma and Sinti and what are their visible/measurable results?
- What are effective tools/measurable indicators to track progress with regard to the human rights situation of Roma and Sinti and the implementation of relevant OSCE commitments?
- What workable policy practices exist and demonstrate results in order to overcome the obstacles in the implementation of OSCE commitments relating to Roma and Sinti at local and national level?

**Migrant workers, the integration of legal migrants**

Though OSCE participating States host a total of 127,2 million migrants, making up more than half of the world migrant population (214 million people) the challenge of migrant integration and its management is still a relatively new issue for a large number of OSCE participating States. Some OSCE participating States have turned from emigration into immigration countries and have been confronted with the issue of integration only recently. Other OSCE participating States have dealt with immigration and integration challenges for decades and regularly revise migration policy in order to achieve more satisfactory results and to adjust to the changes in the migratory flows.

More than half of the total migrant population in some participating States is made up by female migrants of working age. Therefore migration trends in the OSCE region show a need for elaboration and implementation of human-rights based and gender-sensitive migration policies.

OSCE participating States have agreed to a number of commitments in the field of migrant integration, including the need for their national migration practices to comply with their respective international obligations (Athens 2009) and the obligation to combat discrimination, intolerance and xenophobia towards migrants and their families (Moscow 1991), as well as the need to include respect for cultural and religious diversity and promotion and protection of human rights and fundamental freedoms in their national integration policies (Ljubljana 2005). OSCE participating States have also committed to enable migrant participation in the life of society (Moscow 1991), to promote the integration of migrant workers in the host societies of participating States, in which they are lawfully residing (Budapest 1994) and to create the conditions for promoting equality of opportunity in respect of working conditions, education, social security and health services, housing, access to trade unions as well as cultural rights for lawfully residing and working migrant workers (Helsinki 1992).

Based in particular on Maastricht Ministerial Council Decision No 4/03 on Tolerance and Non-Discrimination, ODIHR assists OSCE participating States to facilitate effective and

harmonious integration of legally residing migrants to the benefit of both the receiving society and the migrants themselves by raising awareness and promoting the exchange of good practices in the area of migration in the OSCE region.

The aim of this session is to review the implementation of OSCE commitments on issues of the protection of migrants' rights and their integration in the host participating States. It provides a forum for participants to address humanitarian issues and other commitments related to voluntary and forced migration.

Participants may also wish to consider the exercise of economic, social and cultural rights insofar as they relate to the human dimension, in particular the requirement to ensure that everyone can enjoy these rights without discrimination.

In the context of social and economic rights OSCE participating States decided to pay special attention to problems in the areas of employment, housing, social security, health, education and culture (Vienna 1989, Copenhagen 1990). Furthermore they committed themselves to work for improved access for all to basic social benefits, such as affordable health services, pensions and education, and for adequate levels of protection of socially vulnerable groups, and the prevention of social exclusion (Maastricht 2003).

#### Questions that could be addressed:

- What are the good practices of OSCE participating States aimed at the integration of migrants in host societies?
- How do participating States ensure that migrant workers enjoy equal rights with nationals with respect to access to employment and social services?
- What steps are migrants taking individually and through their representative organizations to actively pursue their integration in host OSCE participating States?
- Are the participating States making sufficient efforts to provide information to migrants in their own languages on their civic rights and obligations?

#### **Refugees and displaced persons**

There has been a significant increase in forced migratory movements in the OSCE region since 2012, with an estimation that the OSCE region hosts approximately 2,2 million refugees, 339 000 asylum-seekers and 2,5 million internally displaced persons (IDPs).<sup>5</sup> Thus the issue of support to the above-mentioned persons, who are in need of protection, remains one of the major concerns in the OSCE region.

OSCE participating States developed a number of commitments and signed up international legal instruments on refugees and IDPs the implementation of which is a pre-requisite for the provision of assistance and effective protection to the persons in need of protection. In this respect the 1951 UN Convention Relating to the Status of Refugees and its 1967 Protocol continue to remain the key legal instrument of protection. The 1998 UN Guiding Principles on Internal Displacement are recognized as a "useful framework for the work of the OSCE and the endeavours of participating States in dealing with internal displacement" (Maastricht 2003).

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<sup>5</sup>UNHCR 2012 "In Review Trends at a glance"

The assistance of OSCE field operations to national authorities 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 has been crucial to addressing the consequences of displacement in conflict and post-conflict areas. Despite the efforts invested, many forced migrants and stateless persons continue to face obstacles in the enjoyment of their basic human rights and their access to protection, assistance and durable solutions in the OSCE region. As the primary responsibility for providing security and ensuring the well-being of IDPs and refugees lies with national authorities, it is essential that assistance provided to the displaced addresses their needs and that legal and physical protection is effective, thereby reducing the need for secondary onward movement. In this regard, national legislation should be elaborated or improved in order to provide durable solutions, such as return, resettlement or local integration.

Questions that could be addressed:

- How are participating States implementing their commitments concerning refugees and IDPs? How can OSCE institutions, field operations and other executive structures best assist the participating States in this field?
- Which mechanisms have States set up to protect refugees and IDPs from forced return to unsafe conditions? How do participating States facilitate the voluntary return in safety and dignity of refugees and displaced persons, or their resettlement and (re)integration?
- How do participating States ensure access of refugees and IDPs to adequate shelter, education, documentation, employment and political participation?

**Treatment of citizens of other participating States**

Participating States have committed 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 relevant OSCE documents. Participating States have committed themselves to removing all legal and other restrictions with respect to travel within their territories by foreigners, except those restrictions which may be necessary and officially declared as state interests in accordance with national legislation (Moscow 1991) and to refrain from degrading treatment and other outrages against personal dignity in dealing with citizens of other participating States (Budapest 1994).

It is important to ensure that administrative authorities dealing with citizens of other participating 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:

- Do OSCE participating States allow citizens of other OSCE participating States lawfully on their territory to move freely and establish residence?
- Do OSCE participating States which require foreigners to register their temporary or permanent place of residence employ sufficient safeguards so that these requirements do not restrict their freedom of movement and choice of residence?
- Have the OSCE commitments on free movement of citizens of other participating States been introduced into the legislation and migration policies of all participating States?

**3–6 p.m.**

**WORKING SESSION 17**

**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 relevant OSCE decisions and other documents.

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 individual States and in sub-regional groupings, as well as in consultation and co-ordination with other international organizations. ODIHR's mandate covers all 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 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 assistance in implementing the priorities and tasks contained in OSCE decisions and other documents.

Questions that could be addressed:

- 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 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?

- How can the OSCE be most effective in assisting participating States in implementing their human dimension commitments?

## **FRIDAY, 4 OCTOBER 2013**

**10 a.m.–1 p.m.**

**CLOSING REINFORCED  
PLENARY SESSION**

### **Closing plenary session reinforced by the participation of human rights directors, OSCE ambassadors and heads of OSCE institutions**

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 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 Kyiv in December 2013.

- 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 of the meeting