



**SUPPLEMENTARY HUMAN DIMENSION MEETING  
ON FREEDOMS OF PEACEFUL ASSEMBLY AND ASSOCIATION, WITH  
EMPHASIS ON FREEDOM OF ASSOCIATION**

**Thursday 16 (afternoon) and Friday 17 April 2015**

**Hofburg, Vienna**

**ANNOTATED AGENDA**

The rights to freedoms of peaceful assembly, association and expression are cornerstones of a vibrant, pluralistic and participatory democracy and underpin the exercise of a broad range of other civil and political rights. These rights are expressly recognized in all major international human rights instruments<sup>1</sup> and OSCE human dimension commitments.

In the 1990 Copenhagen Document, the OSCE participating States committed “*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*”. The OSCE participating States also 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*.” More specifically, in the 1990 Paris Document, they affirmed that “*...without discrimination, every individual has the right to (...) freedom of association and peaceful assembly*.” The OSCE participating States have also committed themselves to the aim of “*strengthening modalities for contact and exchanges of views between NGOs and relevant national authorities and governmental institutions*” (Moscow 1991).

This Supplementary Human Dimension Meeting (SHDM) seeks to demonstrate how the establishment of a culture of dialogue and trust between states and individuals can serve to achieve democracy and human security through the full implementation of the rights to freedom of peaceful assembly and association.

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<sup>1</sup> See e.g. the Universal Declaration of Human Rights, Article 20 (freedom of peaceful assembly and association); International Covenant on Civil and Political Rights, Article 21 (freedom of assembly) and Article 22 (freedom of association); the European Convention on Human Rights and Fundamental Freedoms, Article 11 (freedom of assembly and association), the American Convention on Human Rights, Article 15 (right of assembly) and Article 16 (freedom of association), the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, adopted unanimously by the United Nations General Assembly (A/RES/53/144), Article 5.

The free exercise of both the right to freedom of assembly and association will lead to a better understanding of public concerns, reducing the risk that conflicts escalate into violence, creating opportunities for dialogue and partnerships, capitalizing on the capacities, knowledge and skills of associations, enhancing the openness, inclusiveness and transparency of public decision-making processes and ultimately foster relationships built on mutual trust.

The SHDM will also provide a forum to discuss those narrowly tailored circumstances in which the exercise of these rights may be legitimately restricted in accordance with relevant international standards and commitments. Finally, it will serve as a platform for dialogue on and endorsement of key concrete recommendations to enhance the participation of associations in public decision-making processes, in an effective, transparent, impartial and non-discriminatory manner.

<b>Day 1: Thursday 16 April 2015</b>
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15.00 – 16.00:     **OPENING SESSION**  
                          Opening remarks by ODIHR Director and by Serbian Chairmanship  
                          Keynote Speech

16.00 – 18.00:     **SESSION I: A human security approach to the freedoms of peaceful assembly and association**

The freedoms of peaceful assembly and association are fundamental elements of any functioning democracy. While key OSCE commitments on these rights continue to attest to the fact that participating States generally agree on their importance overall, opinions differ as to when the limitation of these rights is justifiable in practice.

Thus, the protection of the rights and freedoms of others, maintenance of public order and national security are often cited as legitimate reasons by OSCE participating states to curtail the right to assemble peacefully and the right to form, join or participate effectively in non-governmental organizations (NGOs).

Examples of the curtailing of the right to freedom of peaceful assembly in the OSCE region include situations where demonstrations are banned or public areas are declared off-limits to peaceful protesters in the name of security (including the safety of the protesters); where selected associations and NGOs are prohibited, subjected to onerous administrative procedures and requirements, or dissolved under the pretext of public order or national security considerations; situations where members of NGOs face threats, attacks, judicial harassment and sometimes even criminalization despite having engaged in objectively legitimate activities; or where legislation to counter terrorism and extremism is used to target dissenting and critical voices, monitor associations and block their websites, sources of information or communication tools. Surveillance techniques are also often used by participating States in relation to people organizing or participating in public assemblies, and thereby may have a chilling effect on the exercise of their right to freedom of peaceful assembly.

At the same time, peaceful protests often play an important role in expressing public concerns, reducing the risk that conflicts escalate into violence and providing an

opportunity to spur dialogue with authorities. The same applies to associations and their founders/members pursuing objectives or conducting activities that are not always congruent with the opinions and beliefs of the majority or run precisely counter to them. Long-standing jurisprudence of the European Court of Human Rights holds that a vibrant democracy also implies the expression of views that may “offend, shock or disturb” the state or any sector of the population. The approach authorities take in the regulation of peaceful assemblies and of association is a litmus test of their overall respect of human rights.

The State’s obligation to facilitate and protect peaceful gatherings means that relevant state authorities, including police and federal/local administration, should remain open to co-operation with assembly organizers, if they exist; human-rights compliant policing is also central to the concept of such facilitation, which should take place in relation to all assemblies, as long as they remain peaceful. The positive obligation of the State based on OSCE commitments to facilitate the exercise of the right to freedom of association implies that there shall be a presumption in favour of the lawfulness of the establishment of associations and of their objectives and activities, regardless of any formalities applicable for establishment.<sup>2</sup> This also includes creating an enabling environment in which formal and informal associations can be established and operate and where the state provides access to resources and permits associations to seek, receive and use resources.

This session will explore how to respect and protect the rights of persons wishing to assemble peacefully and to associate whilst ensuring that any measures to interfere with their right to do so, on grounds such as national security, are taken in a manner commensurate with the international principles of necessity and proportionality. Moreover, it will focus on the question of which limitations to rights are necessary and justifiable in accordance with relevant international standards and OSCE commitments, to ensure effective security for individuals as rights holders.

***Questions for discussion include:***

- How can the exercise of the rights to freedoms of peaceful assembly and association be facilitated by participating States? What are some good practices?
- What can be done to foster effective co-operation and dialogue between civil society and participating States relating to the exercise of the freedoms of assembly and association? How can such dialogue reduce the risk of violence and help to facilitate the exercise of the rights to freedoms of peaceful assembly and association? What good practices are available both in terms of legislative and regulatory frameworks and implementation practices?
- What are the capacity-building needs of state authorities, including the police and the judiciary, in terms of their duty to facilitate the exercise of the rights to freedoms of peaceful assembly and association in the OSCE participating States and how are they addressed?

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<sup>2</sup> See Principle 1 in the Guidelines on Freedom of Association (2014).

- How can the right to an effective remedy against, and accountability for undue State interferences into the exercise of the freedoms of peaceful assembly and association be ensured?

<b>Day 2: Friday 17 April 2015</b>
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10:00 – 12:00:     **SESSION II: Non-discrimination and the freedoms of peaceful assembly and association**

The fundamental principle that human rights are inherent to all persons within a state's jurisdiction, free from discrimination, is essential to ensuring the full enjoyment and protection of such rights. Thus, participating States have an obligation to respect, protect and ensure the freedoms of peaceful assembly and association for all without discrimination. In many OSCE participating States, unclear and vague laws and regulations governing assemblies and association often lead to arbitrary and differentiated applications of the law. This presents yet another challenge, as it facilitates the discriminatory prohibition of certain assemblies and/or associations, and sometimes even the dissolution of NGOs.

In the context of the freedom of peaceful assembly, non-discrimination entails that the police and other relevant state authorities are held to facilitate and protect all forms of peaceful assembly, regardless of their particular content or aim, or of their participants.

In the context of the freedom of association, it means that all persons and groups wishing to form an association should be able to do so on the basis of equal treatment before the law; under no conditions should persons or groups face particular obstacles in registering associations on the basis of the ethnicity, race, religion, sex, sexual orientation or gender identity or any other status of their founders or members. Legislation and practice often treat associations differently depending on their respective aims, members and activities. The principle of equal treatment means that such difference in treatment (for instance as regards the regulation of activities, public participation, access to resources or reporting) will require an objective and reasonable justification in order to be in accordance with international human rights standards and OSCE commitments.

The positive obligation of the state to facilitate the exercise of the rights to freedoms of peaceful assembly and association may also include an obligation to take positive measures to overcome specific challenges that confront certain persons or groups, such as indigenous peoples, minorities, persons with disabilities, women and youth, in their efforts to organize and participate in peaceful assemblies or to form associations, as well as to integrate a gender perspective into their efforts to create a safe and enabling environment.

This session will focus on the principle of non-discrimination in relation to the above rights, and thereby attempt to develop insights into permissible and non-permissible differences in the treatment of assemblies, their organizers and participants, and associations by OSCE participating States. The session will also aim to discuss the importance and mutual benefit of equal treatment for the states and civil society, and the public at large, so that all persons within a state's jurisdiction can fully enjoy their

freedoms of peaceful assembly and of association. The full exercise of these rights also contributes to the exchange of a diversity of ideas and opinions, which is essential for a democratic society.

***Questions for discussion include:***

- What steps should be taken to prevent the arbitrary and discriminatory application of legislation/regulation on freedoms of peaceful assembly and association? What good practices are available? What challenges still remain?
- How can OSCE structures assist participating States in improving their compliance with OSCE commitments related to ensuring the equal enjoyment of the freedoms of peaceful assembly and of association?
- What are some good practices in terms of taking positive measures to overcome specific challenges that confront certain persons or groups, such as indigenous peoples, minorities, persons with disabilities, women and youth, in the exercise of their rights to freedom of peaceful assembly and of association, as well as to integrate a gender perspective into the efforts of OSCE participating States to create a safe and enabling environment?

14.00 – 16.00:     **SESSION III: Enhancing the participation of associations in public decision-making processes**

The right to participate in the conduct of public affairs has been recognized globally and in domestic settings, and regional standards and models have been developed to support public participation, including that of associations, in decision-making processes. Reaffirming the vital role that associations, NGOs, groups and individuals play in promoting democracy, human rights and the rule of law, as set out in a number of OSCE commitments, OSCE participating States have committed to the aim of “strengthening modalities for contact and exchanges of views between NGOs and relevant national authorities and governmental institutions” (Moscow 1991, para. 43.1). To that end, OSCE participating States should ensure that appropriate mechanisms and procedures are in place for the participation of associations, as representatives of civil society, in public affairs providing for regular, ongoing, institutionalized and open dialogue to facilitate their effective participation.

Participation in decision-making processes means that the public and civil society in particular, as well as other interested parties and stakeholders, should be able to contribute to the development of policies and legislation which affect or may affect them. Effective public participation and transparent processes of decision-making help improve the quality of policy and legislative decisions, enhance the potential for their successful implementation and ultimately serve to increase public trust in state institutions. A participatory democracy and an open and transparent public decision-making process should provide for effective and regular consultation and participation of associations in the development and review of policies and practices of public authorities as well as of laws and legislative amendments. In particular, open and transparent public decision-making processes should lead to the effective and genuine

involvement of those associations of persons most directly affected by the policy and legislative decisions under consideration.

The right to participation in the conduct of public affairs also implies the right to submit authorities to criticism and proposals to improve their functioning and to draw attention to any aspect of their work that may hinder or impede the promotion, protection and realization of human rights and fundamental freedoms. State authorities should also actively involve associations in the oversight of public institutions and offices.

The necessity for inclusive and open dialogue by OSCE participating States with civil society requires that the participation of associations in public decision-making processes should be facilitated in a transparent, impartial and non-discriminatory manner. They can also provide decision-makers in the government with the information required to assess policy impacts and performance.

The objective of this session is to increase OSCE participating States' awareness of the importance and mutual benefit for states and civil society of creating an enabling environment for associations to participate in public affairs, including policy and law-making. It will also allow an exchange of experiences between OSCE participating States and participants, and highlight principles, tools, mechanisms and procedures, as well as good practices which exist in the field of policy and law-making. This session will also include the discussion of key concrete recommendations to enhance the participation of associations in public decision-making processes, in an effective, transparent, impartial and non-discriminatory manner.

***Questions for discussion include:***

- How can OSCE participating States contribute to enhancing associations' participation in public decision-making processes, in an effective, transparent, impartial and non-discriminatory manner?
- What are the principles, tools, mechanisms and procedures, as well as good practices in public decision-making?
- What are some good practices to establish a supportive regulatory framework in OSCE participating States, if any?
- What measures shall OSCE participating States take in order to provide better opportunities for associations to participate in public decision-making processes, and more generally to build a culture of participation?
- What measures should OSCE participating States undertake in order to streamline effective participatory processes and to facilitate equitable access to such processes?

**16.30 – 17.30: CLOSING SESSION**  
**Reports by the Moderators of the Working Sessions**  
**Comments from the floor**  
Closing remarks by Serbian Chairmanship and ODIHR Director