



HUMAN DIMENSION IMPLEMENTATION MEETING
26 September to 7 October 2011
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 2009, 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 2011 meeting, the Permanent Council adopted the agenda in its *Decision No. 1006 of 29 July 2011*. 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/event/hdim_2011. 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, 26 SEPTEMBER 2011

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

Fundamental freedoms I, including:

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

Numerous OSCE commitments are aimed to ensure the individual's freedom of expression, freedom of information, and the freedom of the media. The strategic assumption of these commitments is to place the media in the custody of society instead of in the custody of the state. The session on media freedom will focus particular attention on the following topics:

- New media and safeguarding or fostering pluralism: How to live up to an established OSCE commitment in the digital age
- Acts impeding media freedom, including harassment, detention or violence against journalists, which jeopardize their safety.

The emergence of new media, particularly the Internet, has profoundly changed the way people communicate and share and receive information. Digital terrestrial broadcasting and new media also have changed the traditional conception of “information boundaries”. Freedom of the media is the collective embodiment of freedom of expression. Pluralism in the media is, therefore, a prerequisite for the expression of different opinions and a guarantee of individuals’ abilities to express their opinions without interference.

The session will provide a forum for the discussion of the development of Internet and other electronic media, social networks and the implications of those developments on media freedom and pluralism. Among the topics will be maintaining freedom of expression, safety of journalists and the free flow of information on the Internet. In this context, new forms of media and hybrid platforms and their impact on media pluralism will be discussed.

The session also will address how new technologies necessitate new approaches to safeguarding existing OSCE commitments on media freedom and freedom of expression. It will address governments’ handling of challenges posed by new

technologies and underline prospective threats to media freedom by attempts to curb the rights of those who use new or traditional media to present critical views. If the free flow of information is restricted, individuals' right to freedom of expression will undoubtedly suffer.

In the last years, attacks against journalists dominated the news on media in the OSCE region. As this session aims to raise attention to the frequency of violent acts committed against journalists in the OSCE area, the role of the public authorities in carrying out successful investigations and thereby protecting free media will be discussed.

The authorities' handling of such cases has not been encouraging. As stressed by the Representative on Freedom of the Media (RFOM) on numerous occasions, attempts at silencing critical voices with the help of violence should be seen and handled by law enforcement not as ordinary crimes, but as acts aimed to undermine the basic democratic value of free expression. Impunity in such cases will only encourage further violent cases against media workers and becomes a formidable obstacle to uninhibited journalism. Without a major overhaul of the treatment by law enforcement of violence against journalists, true freedom of the press will remain jeopardized by fear of covering issues such as corruption and human rights.

This session will build upon discussions at the July 2011 Supplementary Human Dimension Meeting on Promotion of Pluralism in New Media as well as the June 2011 [Conference on Safety of Journalists in the OSCE Region](#) which was organized by the Lithuanian OSCE Chairmanship and the OSCE Representative on Freedom of the Media.

Questions that could be addressed:

- Do OSCE States fulfil their commitments to ensure freedom of expression, information and free media in the changing technological environment?
- How can the safety of journalists be better ensured and what are the negative effects of unsafe working conditions?
- What measures can be provided by the relevant players, i.e., governments of participating States, intergovernmental organizations, nongovernmental organizations, journalistic associations and media organizations to support pluralism and independence of the media and access to information?
- What is the situation of freedom of the media and the Internet in the OSCE region? How does new legislation aimed to regulate the Internet affect media freedom?
- How can governments promote the need for thorough and professional investigations of violent crimes committed against journalists?
- What is the danger for free media in legislative provisions addressing "extremism"?
- What is the role of civil society in media freedom advocacy?
- What is the progress regarding decriminalization of libel in the OSCE area and what are the main guidelines to follow when determining the sanctions of civil libel cases?

Fundamental freedoms I (continued), including:

- Freedom of thought, conscience, religion or belief.

Freedom of religion or belief is a longstanding OSCE human dimension commitment. Principle VII of the 1975 Helsinki Final Act commits participating States to “recognize[ing] and respect[ing] the right of the individual to profess and practice, alone and in community with others, religion or belief in accordance with the dictates of his own conscience.” During the CSCE process, this basic commitment to freedom of religion or belief was further elaborated and developed to become the most detailed and complete provision pertaining to religion of any international human rights instrument (see, e.g., Vienna Concluding Document 1989). OSCE Ministerial Council decisions adopted in Maastricht (MC Decision 4/03), Sofia (12/04), Ljubljana (10/05), Brussels (13/06), and Madrid (10/07) 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. The Astana Commemorative Declaration (2010) reaffirmed that “greater efforts must be made to promote freedom of religion or belief”. 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 face a range of issues related to freedom of religion or belief. Many individuals and communities continue to be challenged by restrictions to their rights. Problems encompass infringements of the right to change, adopt and renounce a religion or a belief, as well as limitations to the right to manifest one’s religion or belief. The latter category includes disruption or prohibition of worship even in private homes as well as attacks or restrictions on places of worship.

This session will review the implementation of commitments related to freedom of religion or belief undertaken by participating States. In the implementation of their commitments, OSCE States can benefit from the expertise of the ODIHR’s Advisory Panel of Experts on Freedom of Religion or Belief established in 1997 to provide high-level knowledge on issues related to freedom of religion or belief. The session will also look at how the Advisory Panel can further assist participating States. This session may also build upon the dialogue that has taken place at OSCE meetings devoted specifically to reviewing and enhancing implementation of commitments to freedom of religion or belief. For example, a Supplementary Human Dimension Meeting on Freedom of Religion or Belief brought about 250 participants together in Vienna in December 2010 to discuss a range of topics that included emerging issues and challenges related to implementation of the commitments, education and religion or belief, and religious symbols and expression.

Questions that could be addressed:

- To what extent are OSCE States fulfilling their commitments to ensure and promote freedom of religion or belief? What are the main issues or obstacles

arising when implementing the commitments?

- How can ODIHR and the Advisory Panel assist participating States further in implementing their commitments? 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 3

Fundamental freedoms II, including:

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

Freedom of Assembly and Association

Freedom of peaceful assembly and association are intrinsic to any functioning democratic system. The right to assemble peacefully is an essential condition for the exercise of other human rights, such as freedom of expression. Respect for this right helps ensure that all people in a society have the opportunity to participate in peaceful assemblies as a way to express opinions that they hold in common with others on issues affecting individuals, groups of persons or matters of national interest. As a true foundation of democracy, the right to assemble is guaranteed by major human rights treaties and by a commitment made by OSCE participating States in 1990, in Copenhagen, reaffirming that “everyone will have the right of peaceful assembly and demonstration”. In addition to serving the interest of democracy, the ability to freely assemble is also crucial to creating a tolerant society in which groups with different – and possibly conflicting – beliefs, practices or policies can exist peacefully together.

Instituting regulations which may affect the right of freedom of assembly in domestic law still poses a challenge, as a direct result of the changing nature in which assemblies are organized, using modern technology. In addition, civil society and other actors in some participating States continue to report difficulties in exercising their right to peaceful assembly and face dire repercussions when they do so, instead of receiving protection from the State. Often such difficulties are compounded by policing practices which do not meet international human rights standards, especially with regard to the excessive or unnecessary use of force and the dispersal of assemblies by law enforcement agents.

A growing trend towards more regulation, control and bureaucratic hurdles can be observed in some participating States, which results in de facto limitations and restrictions of the right to peaceful assembly. In some cases, excessive powers to apply or interpret relevant legislation or regulations are in the hands of local authorities, whose actions may limit or prevent the effective exercise of the right to freedom of assembly. To assist participating States in ensuring that their legislation and practices are consistent with their OSCE commitments and other international standards, ODIHR and the Council of Europe’s European Commission for Democracy through Law (Venice Commission) have developed *Guidelines on Freedom of*

Peaceful Assembly as a practical toolkit for legislators and practitioners responsible for implementing laws by drawing on good-practice examples to illustrate the various legislative options used to regulate issues pertaining to the freedom of assembly. ODIHR and the Venice Commission issued the second, updated edition of these *Guidelines* in 2010.

The right to freedom of association allows citizens to come together either on an informal or formal basis by forming or joining associations in order to express their views on matters of public concern. In the 1990 Copenhagen Document, the participating States expressed their commitment to “ensure that individuals are permitted to exercise the right to association, including the right to form, join and participate effectively in non-governmental organizations which seek the promotion and protection of human rights and fundamental freedoms, including trade unions and human rights monitoring groups”.

In many OSCE States, the right to freedom of association is still unreasonably restricted and international standards on this issue are not fully respected. National laws have tightened the state control over civil society institutions; associations receiving foreign funding are often subject to pressure from State agencies, especially in the context of overly wide interpretation of anti-terrorism legislation. Excessive administrative rules have had the effect of restraining the right to create associations and non-governmental organizations. NGO representatives are at times targeted for their activities, some facing fabricated charges and some others paying with their lives for their activities.

Respect for the right to freedom of association is also essential for the establishment and operation of political parties. This relationship is detailed in *Guidelines on Political Party Regulation* which ODIHR and the Council of Europe’s Venice Commission recently developed as a tool to assist OSCE participating States in formulating legal frameworks that comply with OSCE commitments and other international standards in facilitating the proper establishment, development and functioning of political parties. These *Guidelines* stress that political parties are integral vehicles for political participation and that the exercise by individuals of their right to freedom of association in order to form political parties should benefit from the protection of the State.

Questions that could be addressed:

- Have participating States created a favourable environment for the exercise of freedom of assembly and association by means of laws and practices consistent with international standards?
- Have participating States implemented relevant recommendations from previous OSCE meetings? What challenges are they experiencing in the implementation process?
- When deciding on the legitimacy of any restrictions on the right to freedom of assembly and association, do participating States’ laws provide for a transparent and participatory decision-making process?
- How can current challenges in managing and policing assemblies in participating States be effectively addressed?
- How can effective cooperation between civil society and participating States be fostered?
- What are the main legal obstacles limiting the activities of NGOs and other

civil society actors? How can undue state interference in the activities of NGOs and other civil society actors be avoided?

- How can the OSCE, its institutions and field operations assist OSCE participating States in the implementation of their commitments on freedom of association and freedom of assembly, inter alia, taking into account also the OSCE/ODIHR - Venice Commission *Guidelines on Freedom of Peaceful Assembly*, as revised (2010), and the *Guidelines on Political Party Regulation* (2011)?

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

According to the UN principles relating to the status of national institutions for the promotion and protection of human rights (Paris Principles), National Human Rights Institutions (NHRIs) are independent bodies established by a constitutional or legislative act, funded by the state and specifically mandated to protect and promote human rights. NHRIs can contribute to the promotion and protection of human rights by processing individual complaints, identifying gaps in the area of human rights, providing recommendations to the authorities and engaging in human rights education. The importance of these institutions has been recognized in OSCE commitments whereby OSCE participating States have pledged to "...facilitate the establishment and strengthening of independent national institutions in the area of human rights and the rule of law..." (Copenhagen 1990). While most OSCE participating States have established NHRIs, further political and financial support is required in order to strengthen the institutions and to make them efficient and effective. In April 2011, an OSCE Supplementary Human Dimension Meeting (SHDM) on NHRIs took place, bringing together around 200 representatives from governments, NHRIs and civil society to discuss the work of NHRIs.

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

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

As the State has 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 the Astana Commemorative Declaration the participating States have

emphasized that they “value the important role played by civil society [...] in helping [them] to ensure full respect for human rights, fundamental freedoms, democracy [...] and the rule of law.” Several factors play an important role in ensuring a vibrant civil society positively interacting with State bodies: these include respecting the freedoms of individuals to exercise their rights; consulting with civil society on important policy decisions which may influence the human rights situation; and providing protection to civil society actors.

Questions that could be addressed:

- How can NHRIs be strengthened in accordance with relevant OSCE commitments and the UN Paris Principles?
- How can the relationship between NHRIs and civil society (including human rights defenders) be strengthened?
- How can NHRIs support civil society more effectively?
- What opportunities do OSCE participating States create to facilitate the work of civil society? How can these opportunities be further reinforced?
- What challenges do civil society actors face in the OSCE region?
- How can the OSCE, its institutions, and field operations, in line with their respective mandates, assist participating States in ensuring support to the NHRIs and members of civil society , including protection of those under threat?

Human Rights Education

States have the primary responsibility to promote and ensure human rights education and training (HRE). In practice this should mean that: official educational curricula includes human rights either as a separate subject or as part of several subjects; human rights of all those who participate in the educational process are respected; teaching and learning tools are of high quality; teaching staff is adequately prepared; and there is proper evaluation of human rights education, on the level of learner’s outcomes and impact of HRE.

The United Nations Declaration on Human Rights Education and Training, which the UN Human Rights Council adopted on 23 March 2011, (A/HRC/RES/16/1), defines human rights education and training as “all educational, training, information, awareness-raising and learning activities aimed at promoting universal respect for and observance of all human rights and fundamental freedoms and thus contributing to, inter alia, the prevention of human rights violations and abuses by providing persons with knowledge, skills and understanding and developing their attitudes and behaviours, to empower them to contribute to the building and promotion of a universal culture of human rights.” The UN plan of action for the second phase (2010-2014) of the World Programme for Human Rights Education focuses on human rights education for higher education and on human rights training for teachers and educators, civil servants, law enforcement officials and military personnel.

HRE is an important aspect of the work of the OSCE. ODIHR has been working to promote effective teaching about human rights in both formal educational institutions and in non-formal education. In 2009 ODIHR, together with partner intergovernmental organizations (UNESCO, the Office of the UN High Commissioner for Human Rights, and the Council of Europe), developed a resource entitled

“Human Rights Education in the School Systems of Europe, Central Asia and North America: A Compendium of Good Practice”. The compendium contains 101 exemplary practices from 38 countries in the OSCE area. These practices represent educational approaches that address human rights violations and abuses, post-conflict tensions, conflict resolution, intolerance and the need for active civic participation. This tool was launched at the HDIM 2009; the tool was translated into Russian in 2010, and was presented officially in several participating States. ODIHR is now developing HRE programme guidelines for four target groups – secondary school students, human rights activists, police and civil servants – to be used in the design of programming and evaluation.

The session will provide an opportunity to help raise awareness of the OSCE participating States and civil society about existing commitments and to review the recent HRE work of States, civil society, ODIHR, other OSCE structures, the UN and other international organizations.

Questions that could be addressed:

- What are the main achievements of the implementation by OSCE States of their key commitments in the area of human rights education and training?
- How can state institutions and non-governmental organizations cooperate effectively on human rights education?
- What practical steps could be taken to ensure strategic thinking about human rights education and training in participating States?

WEDNESDAY, 28 SEPTEMBER 2011

10 a.m.–1 p.m.

WORKING SESSION 4

Rule of law I, including:

- Legislative transparency;
- Independence of the judiciary;
- Right to a fair trial.

Legislative Transparency

OSCE commitments call for legislative processes to be open and public (Moscow 1991). These commitments were undertaken in the context of the right of the individual to know and act upon his rights and duties in the field of human rights and fundamental freedoms, but also from a practical point of view: in order for laws to be widely accepted by citizens, and thus, effectively implemented, the law-making process must be open, inclusive and transparent (Copenhagen 1990). This means that the process must allow for public discussions and include mechanisms for ensuring that the views and input of those directly affected by a law or responsible for its enforcement are taken into consideration. Citizens and civil society groups should be offered opportunities to comment publicly on proposed legislation. Legislative agendas and timetables should be made public well in advance of the consideration of the proposed legislation, and access to parliamentary proceedings should be subject to reasonable conditions. Transparent consultation processes should not suffer as a result of the need to adopt large amounts of legislation in a short period of time. Full

collections of legislation, both primary and secondary and currently or formerly in force, should be readily available, and copies of individual instruments should be easy to acquire for officials, legal representatives and members of the public.

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

Questions that could be addressed:

- What are the main obstacles to implementing OSCE commitments that improve legislative transparency?
- How can participating States ensure that the public has access to the legislative process and public documents? What techniques and instruments can be used to this effect?
- What procedures within the executive and the legislative branches of government must be in place in order to ensure transparency? How can access to drafts, policies and final adopted texts of legislation be improved?
- What modern-day tools and procedures may be employed by participating States in order to enhance the efficiency of their law-making processes?
- How can the OSCE and its institutions and field operations, in line with their respective mandates, support the efforts of participating States towards greater transparency of their law-making systems?

Independence of the Judiciary

An independent judiciary is at the core of a democratic order and the rule of law. OSCE participating States have long recognized the importance of the independence of the judiciary. Most recently, participating States reaffirmed their commitment to judicial independence in their Ministerial Council Decision on *Further strengthening the rule of law in the OSCE area* (Helsinki 2008). Judicial independence has also been the focus of numerous human dimension meetings. In their Copenhagen 1990 and Moscow 1991 documents, participating States have acknowledged the significance of judicial independence for the full expression of the inherent dignity and rights of all human beings. They also 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.

Credible reports of insufficient respect for independence of the judiciary are still frequent in the OSCE area, with judges experiencing attempts to exercise undue influence from a range of actors, including powerful business interests and vocal advocacy groups. Increasingly, many participating States are taking measures to ensure judicial integrity and prevent abuses of judicial office. Such measures must not undermine judicial independence. Executive control of the judiciary in some OSCE States deprives victims of human rights abuses of effective legal remedies, undermines public trust in the administration of justice, and foments sentiments of injustice in society.

In an effort to supply tools to OSCE participating States to strengthen judicial

independence, ODIHR developed the *Kyiv Recommendations on Judicial Independence in Eastern Europe, South Caucasus and Central Asia*. This document contains specific suggestions on: judicial administration with a focus on judicial councils; judicial self-governing bodies and the role of court chairs; criteria and procedures for judicial selection; and ensuring accountability of judges and independence in adjudication. Participating States are encouraged to discuss these policy suggestions and use their potential to improve legislation and practice for achieving greater independence of the judiciary. ODIHR will continue to facilitate the exchange of expertise and provide technical assistance for the benefit of participating States that express their interest to further strengthen the independence of their judiciaries.

Questions that could be addressed:

- How are the competencies for judicial administration divided among the three branches of power? If different bodies are involved in administering the judiciary, how are they composed and what are their respective tasks?
- Are judges appointed and promoted through a transparent procedure based on qualifications and merit?
- Which models of random case assignment may serve as good practices to prevent undue influence on case assignment while taking into consideration criteria such as experience, specialization, and workload of judges?
- How is a representative and pluralistic composition of the judiciary ensured?
- Where Heads of State or Ministers of Justice appoint and promote judges, how is their discretion limited to prevent arbitrary decision-making?
- Which elements should guarantee the fairness and transparency of judges' performance evaluation systems?
- What are good practices in maintaining publicly available and searchable databases of court decisions?
- How can the OSCE further assist participating States in efforts to strengthen judicial independence?

Right to a Fair Trial

The right to a fair trial consists of a number of guarantees recognized as essential to the proper administration of justice. Genuine respect for fair trial rights also serves as a bulwark against political abuse of criminal proceedings. The right to a fair and public hearing by a competent, independent, and impartial tribunal established by law has long been reaffirmed by OSCE participating States, along with other fundamental guarantees, such as: equality of arms between the prosecution and the defence; the right to prompt and affordable legal assistance; the presumption of innocence; and the principle of *nulla crimen sine lege*, that all criminal offences must be enshrined in law. The independence of legal practitioners, in particular their conditions for recruitment and practice, should also be guaranteed by participating States.

To ensure greater transparency in the implementation of their commitments in the human dimension, the participating States have also agreed to accept as a confidence-building measure the presence of observers 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 reliable and 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.

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 (Moscow 1991).

Questions that could be addressed:

- How frequently is pre-trial detention ordered? What policies and concrete measures are adopted to prevent misuse of pre-trial detention for pressuring the detained? Are alternatives to pre-trial detention properly considered before pre-trial detention is ordered?
- How do participating States strike the appropriate balance between the presumption of innocence and the imposition of high security measures on defendants appearing at trial?
- Are conviction/acquittal rates indicative of any bias in the criminal justice system?
- Does domestic law or jurisprudence confirm the applicability of fair trial guarantees in the field of administrative law? If yes, what specific standards have been acknowledged?
- Are administrative cases reviewed by independent courts or special bodies? How does the system ensure equality of arms?
- How can OSCE, its institutions and field operations support States in ensuring the right to fair trial in line with commitments?
- Is the independence of the legal profession recognized and protected in law and in practice? Do bar associations defend their members from political interference?

3–6 p.m.

WORKING SESSION 5

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

While there are no OSCE commitments requiring the abolition of the death penalty, the OSCE participating States have committed themselves to only impose capital punishment in a manner not contrary to their international commitments and to keep the question of whether or not to retain the death penalty under consideration. In addition, the participating States that retain the death penalty in some form have committed themselves to ensuring transparency regarding the practice by making information about its use available to the public.

In 2010, the worldwide trend towards the full abolition of the death penalty continued. Death sentences and execution rates declined in one participating State,

and the debate on the introduction of a moratorium has increased in another, although executions continued to be carried out. Two countries that had already fully abolished the death penalty in their domestic legislation also confirmed this at the international level during the reporting period.

Questions that could be addressed:

- To what extent do OSCE participating States comply with the OSCE commitments on the death penalty, including in regard to the exchange of information? What standards and good practices should be observed by OSCE participating States that have in place a moratorium on executions?
- What steps are needed in law and practice to ensure that international legal obligations on the use of the death penalty are observed?

Prevention of torture

Reflecting international human rights law, the OSCE has firm and clear commitments in place prohibiting torture and other cruel, inhuman, or degrading treatment or punishment. OSCE commitments, including Copenhagen 1990, are unequivocal with regard to the prohibition against these violations and are applicable to all OSCE participating States. Despite these existing commitments, different international protection instruments in place and international efforts undertaken to eradicate torture and other forms of ill-treatment, this phenomenon continues to exist and is widespread throughout the OSCE area.

Recognizing that regular and unhindered access to places of deprivation of liberty by an independent body is one of the most effective methods to prevent torture and other forms of ill-treatment, ODIHR was in the past engaged in training governmental officials and civil society groups in monitoring places of deprivation of liberty. In April 2009 ODIHR released *The Fight Against Torture: The OSCE experience* with a particular focus on concrete achievements in countries where the OSCE maintains field operations. Based on this experience, the study identified lessons learned and best practices developed in order to maximize the impact of current and future OSCE activities in this field, as well as proposing strategies for future work on torture prevention.

Since the Optional Protocol to the UN Convention Against Torture (OP-CAT) came into force in 2006, ODIHR shifted its focus of support to assist in implementing this international treaty. Upon request from OSCE participating States, National Human Rights Institutions, OSCE Field Operations or civil society actors, ODIHR supports the establishment and functioning of National Preventive Mechanisms under the OP-CAT. Activities recently carried out in a number of participating States include: legislative assistance (review, comments and advice on draft or adopted legislation); conferences and training on torture prevention aimed at raising awareness on the importance of detention monitoring; and providing expertise on building the institutional capacity of NPMs. ODIHR also maintains close links with relevant international actors such as the UN Sub-Committee Against Torture, Council of Europe's Committee Against Torture, Council of Europe's National Institutions Unit, the OP-CAT Contact Group and others and serves as the OSCE hub on NPM-related issues.

Questions that could be addressed:

- What are some recently adopted good practices in OSCE States in combating torture that could be shared with other governments and civil society actors?
- How can ODIHR's programmes and expertise in such areas as NHRIs/NPMs, human rights education and training, and protection of human rights while fighting terrorism assist participating States in meeting their anti-torture commitments?

Protection of Human Rights and Fighting Terrorism

It is imperative that measures taken to prevent and combat terrorism and violent extremism comply with the rule of law and relevant provisions of international law, including, in particular, human rights and international humanitarian law. Counter-terrorism measures that violate human rights may have adverse, counterproductive effects; perceived as unjust and discriminate, they may in fact increase support for violent extremism and, in doing so, diminish security and stability in the long term.

The enjoyment of 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. Another right that may be affected is 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. Freedom of religion or belief, which protects an individual's right to practice her or his faith without the interference of state authority, may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health, morals or the fundamental rights and freedoms of others. OSCE States have firmly rejected identification of terrorism with any nationality or religion.

Other rights, such as the rights to equal treatment and non-discrimination, to due process, to a fair trial, to freedom of expression, association and assembly, as well as rights of privacy and property, may also be impacted. The full spectrum of these rights is covered by the OSCE human dimension commitments, and participating States have committed themselves to fully protecting them (Moscow 1991), including, specifically, within the context of combating terrorism (Bucharest Plan of Action for Combating Terrorism (2001); OSCE Charter on Preventing and Combating Terrorism (2002)).

Questions that could be addressed:

- What steps are being taken by participating States to ensure that:
 - counter-terrorism practices respect human rights and fundamental freedoms, and limitations of these rights are legitimate and proportional?
 - counter-terrorism practices do not violate the right to be free from torture and to ensure that there is no interference with the absolute protection afforded by this right?
 - the principle of *non-refoulement* and the right to appear before a judge are respected in all extraditions or transfers of individuals between jurisdictions?
 - persons suspected of terrorism are not being held in detention arbitrarily, unlawfully, incommunicado, without access to a lawyer or without remedy?

- counter-terrorism practices are subject to judicial review and/or parliamentary oversight?
- What can OSCE through its executive structures contribute to the efforts of other international organizations for fulfilling commitments in this area?

THURSDAY, 29 SEPTEMBER 2011

10 a.m.–1 p.m.

WORKING SESSION 6

Specifically selected topic: Freedom of movement:

- Implementation of OSCE commitments related to freedom of movement and human contacts.

The principle of freedom of movement and choice of place of residence has been affirmed and reaffirmed in numerous OSCE documents (Helsinki 1975, Madrid 1983, Vienna 1989, Copenhagen 1990, Paris 1990, Moscow 1991, Budapest 1994, Ljubljana 2005). OSCE participating States use the term “freedom of movement” to describe a wide range of topics that concern free movement of people within the borders of their own state, including the entry into and exit from the territory of states by non-citizens of participating States, and the free movement of foreigners within state borders. The term was, however, first introduced and is still primarily understood as a fundamental right stipulated in Article 13 of the Universal Declaration of Human Rights (1948) which states that *“Everyone has the right to freedom of movement and residence within the borders of each state”*. Furthermore, Article 13 of the Declaration states that *“Everyone has the right to leave any country, including his own, and to return to his country”*. Both of these provisions were explicitly endorsed by participating States (Vienna 1989).

This right to leave and return to the territory of a state is, however, not complemented by an internationally recognized right to enter the territory of another state. Consequently, the decision and regulation of conditions enabling persons to enter another country remain within the discretion of sovereign states.

The principle of freedom of movement and choice of place of residence within the internal borders of a state stems from a number of internationally accepted human rights instruments, in addition to OSCE commitments. A central OSCE commitment regarding this principle is contained in the 1991 Moscow Document, which states in Chapter 3, paragraph 33: *“The participating States will remove all legal and other restrictions with respect to travel within their territories for their own nationals and foreigners, and with respect to residence for those entitled to permanent residence, except those restrictions which may be necessary and officially declared for military, safety, ecological or other legitimate government interests, in accordance with their national laws, consistent with CSCE commitments and international human rights obligations. The participating States undertake to keep such restrictions to a minimum”*.

In the context of promoting cross border human contacts, participating States have long used the Helsinki process to encourage mutually beneficial steps to clarify rules and simplify procedures in order to facilitate cross-border travel for personal and professional reasons. This is particularly the case when it comes to cross-border travel on humanitarian grounds, but it also extends to facilitating contacts in other

fields, such as business, education or science. Recognizing that *“...the development of human contacts between citizens of participating States is an important element in strengthening friendly relations and trust among people...”*, the Helsinki Final Act introduced a range of commitments that aim to promote freer cross border movements and to simplify procedures for exit and for entry of foreigners into territories of participating States. In that context, participating States also made specific commitments, which aim to simplify exit procedures and procedures for entry of citizens of other participating States on the basis of inter alia family contacts, family reunion, marriage with citizens of other participating States and business contacts.

The issue of human contacts was also addressed during the Third Follow-Up meeting of the CSCE (Vienna 1989), where participating States reiterated their commitment to *“...further facilitate travel of an individual or collective basis for personal or professional reasons and for tourism, such as travel by delegations, groups and individuals and also agreed to reduce the time for the consideration of applications for such travel to a minimum”*. Participating States specifically highlighted the need to address existing visa regimes and agreed to *“...give serious consideration to proposals for concluding agreements on the issuing of multiple entry visas and the reciprocal easing of visa processing formalities, and consider possibilities for the reciprocal abolition of entry visas on the basis of agreements between them”*.

In the 1990 Copenhagen Document, OSCE States affirmed that *“...freer movement and contacts among their citizens are important in the context of the protection and promotion of human rights and fundamental freedoms”*. To that end, they expressed the intention *“...to implement the procedures for entry into their territories, including the issuing of visas and passport and customs control, in good faith and without unjustified delay”*. Where visa regimes are in place, participating States agreed to *“...shorten the waiting time for visa decisions, as well as simplify practices and reduce administrative requirements for visa applications”*.

More recently (Ljubljana 2005), OSCE States committed “to promote free and secure movement of persons...across borders, ...through enhancing the security of travel documents and encouraging, as appropriate, circumstances that could allow liberalization of visa regimes,...” (Border Security and Management Concept: Framework for Co-operation by the OSCE Participating States).

The aim of this session is to review the implementation of the OSCE commitments on freedom of movement and human contacts and to assess the current situation and challenges within the OSCE region.

Questions that could be addressed:

- What specific steps could States take to facilitate freer movement in the context of the protection and promotion of human rights and fundamental freedoms?
- How can participating States facilitate freer 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?

- How has the commitment, of OSCE 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?
- What are the challenges in developing efficient models of residency registration in the participating States where it is being practiced? How can the OSCE assist States in addressing internal registration issues?
- How can a balance be found between national security concerns and promotion of liberalized cross border travels? What mechanisms can participating States use to facilitate legitimate cross border travel?
- Which steps may be taken by the participating States to address concerns that the application of visa requirements and related rules and procedures may serve to inhibit travel across borders for legitimate purposes?
- How can the OSCE help to ensure that cross-border travel on humanitarian grounds, including for vulnerable groups such as specific groups of migrants and asylum seekers is facilitated, while at the same time addressing legitimate concerns of participating states related to issues of terrorism and trafficking in human beings or narcotics?

3–6 p.m.

WORKING SESSION 7

Specifically selected topic: Freedom of movement (continued):

- Freedom of movement of citizens within participating States and facilitation of freer movement across State borders throughout the OSCE area.

In many OSCE participating States, citizens are required to register their place of residence with relevant authorities. Registration information is used for purposes of planning and delivery of state services and to contact people. Residency registration indirectly but decisively determines to what extent people enjoy certain basic rights and in particular freedom of movement. Although the regulation of residency registration has been used to restrict freedom of movement in a number of participating States, in many others it has served as one of the cornerstones of modern administration, facilitating democratic governance and the upholding of fundamental civil and political rights.

In many participating States, registration of place of residence requires a simple notification to relevant authorities. In some OSCE States, however, registration of residence is dependent on fulfilling certain administrative criteria and, where procedures are complex and onerous, they may constitute an obstacle to freedom of movement for individuals and for certain categories of the population.

In terms of facilitating contacts among citizens and cross border travel, OSCE participating States have come a long way since the Helsinki Final Act was adopted. Presently, there are large regions within the OSCE area, established on the basis of multilateral agreements, in which citizens enjoy visa-free travel. Illustrations of these examples are the Schengen area and the Eurasian Economic Community (EurAsEC) region. Further to these regional agreements, a range of bilateral agreements have been concluded between participating States with the purpose of establishing visa-

free cross-border travel or the opportunity for their citizens to obtain longer-term multiple-entry visas. The process of European integration has had an impact on increased freedom of movement of residents of the European Union and on limitations and new visa regimes for residents from outside the EU. Increased migration of persons from economically or socially disadvantaged communities poses a particular challenge to EU member states in identifying appropriate responses.

Facilitating increasingly liberalized cross-border travel requires that a certain number of issues of political, security-related and technical nature are addressed by participating States. On a political level, States that consider liberalizing entry into their territory often face the challenge of ensuring that the liberalization process is being reciprocated, so as to benefit both their own citizens and foreigners entering their territory. Cross-border travel liberalization is often thought to result in an influx of people across borders which may lead to loss of control over border management, leading to increased mixed migration flows, both for economic and humanitarian reasons. Liberalizing or entirely abolishing a visa regime is thus closely connected to the strengthening of border management services, so as to be able to respond to an increased demand for entry by foreigners, including nationals of third countries transiting states within visa-free regimes.

Questions that could be addressed:

- Are participating States fully implementing their commitments concerning freedom of movement? What problems are they experiencing in the implementation process?
- Do existing residency registration frameworks in OSCE States provide sufficient safeguards for protection of freedom of movement and choice of place of residence? Does residency registration require an application process that is subject to approval by the relevant authorities, or is it sufficient that the relevant authorities are merely notified of the place of residence?
- How can States ensure that the need for providing a legal basis for registering place of residence does not infringe on citizens' fundamental rights?
- How can participating States co-operate - as part of a cross-border travel liberalization process - in addressing legitimate concerns related to increased mixed migration flows, such as anticipated labour migration or an increase in the number of asylum seekers?
- How can it be ensured that visa liberalization processes are perceived as beneficial for all participating States and their citizens?

FRIDAY, 30 SEPTEMBER 2011

10 a.m. – 1 p.m.

WORKING SESSION 8

Specifically selected topic: Democratic elections and electoral observation:

– Implementation of OSCE commitments on elections

In the 1990 Copenhagen Document, OSCE participating States agreed upon wide-ranging commitments for fostering the protection and promotion of human rights and fundamental freedoms, as well as the promotion of democratic institutions and

the rule of law. They have also committed, on many occasions, to conducting genuinely democratic elections. Over the last two decades, OSCE has placed great emphasis on promoting democratic elections as a key pillar of sustainable security and stability.

ODIHR is mandated to assist participating States in the implementation of election-related commitments through long-term and short-term observation and to provide follow-up assistance in implementing recommendations. While election observation activities are the most visible aspect of ODIHR's election mandate, they are just one part of a much broader range of election-related activities aimed at fostering and strengthening democratic elections. These activities also focus on the review of election legislation, follow-up on recommendations, and methodological development.

While ODIHR is able to note examples of commendable election practices in keeping with OSCE commitments in certain participating States, and improvements in others, shortcomings are also identified. The following trends are still regularly identified in some OSCE States during the course of ODIHR election observation activities. These trends, which sometimes reflect attempts to limit competition and marginalize voter choice, include:

- Election legislation that is not in line with OSCE commitments and that has not been implemented in an inclusive, transparent and participatory manner;
- Lack of confidence in the impartiality of election administration;
- Problems in voter registration;
- Lack of political pluralism;
- Limitations on the right to vote and be elected, including rights of persons belonging to national minorities and marginalized groups;
- Lack of respect for fundamental freedoms essential to democratic electoral processes: freedoms of assembly, association, expression, and movement;
- Limitations to a free campaign environment;
- Inequitable access to the media and lack of fair, objective and balanced media coverage for election contestants;
- Challenges to the secrecy of the vote;
- Lack of transparency and accountability during the vote count and tabulation;
- Inadequate and ineffective complaints and appeals process; and
- Limitations to the work of international and domestic election observers, including restrictions in national law concerning international and domestic observers.

These shortcomings require further attention and improvement in some participating States in order to bring election processes fully in line with OSCE commitments for the conduct of democratic elections.

For many years, ODIHR has particularly specialized in the review of electoral legislation, often in co-operation with the Council of Europe's Commission for Democracy through Law (Venice Commission). It has also focused on the implementation of its comprehensive recommendations through the development of follow-up activities, including targeted technical assistance projects and attempts to ensure ongoing and constructive post-election dialogue, upon the request of the

participating States.

Questions that could be addressed:

- How are OSCE participating States working to meet their commitment to conduct periodic democratic elections?
- How do national elections comply with the 1990 Copenhagen Document as the cornerstone of the common election-related OSCE commitments in the election sphere?
- In particular, how are participating States addressing challenges such as:
 - establishing election administration bodies that enjoy broad confidence, including in ensuring honest voting, counting, and tabulation procedures?
 - providing for effective voter and candidate registration? guaranteeing an equitable campaign environment, including access to media?
 - regulating political party/candidate finance in a transparent and accountable manner?
 - establishing accessible and timely complaints and appeals procedures?
 - upholding the role of election observers, international and domestic?
- How are participating States promoting participation of women and inclusion of minorities? Has progress been made in this area?
- How are participating States addressing the introduction of new voting technologies in a manner that ensures the same transparency and accountability as traditional procedures?
- How can ODIHR further assist participating States in addressing these challenges and in meeting their commitments?
- What are the reasons for different assessments of the electoral process in the same countries by various groups of international observers?

3–6 p.m.

WORKING SESSION 9

Specifically selected topic: Democratic elections and electoral observation (continued):

- Election observation

In accordance with the principle of equality of sovereign States, all OSCE participating States are bound by the same commitments. In this context, ODIHR has further expanded the geographic scope of its activities to follow electoral developments in a broader range of participating States.

ODIHR assesses whether elections are conducted in line with OSCE commitments, other international and regional standards for democratic elections and national legislation, and formulates recommendations for future improvements. For this, ODIHR has, as tasked in Budapest 1994, developed a systematic and comprehensive observation methodology outlined in an Election Observation Handbook and other materials on various aspects of an electoral process. In its election observation efforts, ODIHR carries out its mandate in line with Ministerial Council Decision 19/06, respecting principles of independence, impartiality and professionalism as well as accountability, objectivity and transparency of election observation. Also, as per MC Decision 19/06, election observation is a common endeavour involving

ODIHR, the OSCE Parliamentary Assembly and other parliamentary institutions. ODIHR also continues to support the process associated with the 2005 *Declaration of Principles for International Election Observation* and the accompanying Code of Conduct, which have been endorsed by nearly forty international intergovernmental and non-governmental organizations active in the field of election observation.

The 1994 Budapest Summit Document underlined the importance of long-term observation “before, during and after elections”. The importance of follow-up to ODIHR recommendations was emphasized at the 1999 Istanbul Summit where OSCE participating States agreed to “follow up promptly the OSCE/ODIHR election assessment and recommendations”. The 2002 Porto Ministerial Council, acknowledging that democratic elections can be conducted under a variety of electoral systems, also called upon participating States to strengthen their response to ODIHR recommendations. The 2003 Ministerial Council in Maastricht tasked ODIHR to “consider ways to improve the effectiveness of its assistance to participating States in following up recommendations made in OSCE/ODIHR election observation reports and inform the OSCE Permanent Council on progress made in fulfilling this task.” Further, Decision 19/06 of the Brussels Ministerial Council in 2006 emphasized “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.” In recognizing that ODIHR has demonstrated its ability to assist participating States in fulfilling their human dimension commitments, MC.DEC 19/06 also underscores the need for effective follow-up to recommendations made in election observation mission final reports.

Election observation is, therefore, not an end in itself but intended to assist OSCE participating States in holding democratic elections in line with their election-related commitments. Serious consideration of recommendations made by ODIHR following election observation activities and effective implementation of these recommendations would maximize the utility of election observation. ODIHR has been actively engaged in following up on the findings and recommendations of past election observation missions, notably through follow-up visits, participation in roundtables and seminars, review of legislation, supporting OSCE field operations in targeted technical assistance projects, and supporting States in various activities aimed at implementing ODIHR recommendations in line with OSCE commitments for democratic elections. Follow-up to recommendations is, therefore, a process that is the responsibility of OSCE participating States, as it is their responsibility to conduct elections in line with OSCE commitments.

Questions that could be addressed:

- What are the forms of co-operation between participating States and ODIHR on the follow-up activities concerning the implementation of ODIHR recommendations?
- How can election observation methodology be further enhanced, without compromising on recognized main principles of election observation – independence, impartiality and professionalism?
- How can follow-up activities and post-election engagement be enhanced in order to more effectively assist participating States in the implementation of ODIHR recommendations?
- How can the necessary will be mobilized to genuinely consider ODIHR

recommendations and further develop national and international mechanisms for more effective follow-up to them?

- What are good practices in following up ODIHR recommendations?
- Which follow-up activities can benefit most from active involvement by ODIHR? Is there a need for a more systematic approach to follow-up by participating States?
- How can reporting on the progress of implementing ODIHR recommendations be maintained and strengthened?

MONDAY, 3 OCTOBER 2011

10 a.m.–1 p.m.

WORKING SESSION 10

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 coordination with other international organizations. ODIHR's mandate covers all 56 participating States. It can therefore provide a channel for exchange of experience and best practices from one region of the OSCE to another, and be effective in supporting and complementing the work of OSCE field operations.

This session will explore 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?

3–6 p.m

WORKING SESSION 11

Humanitarian issues and other commitments I, including:

- Migrant workers, the integration of legal migrants;
- Refugees and displaced persons;
- Treatment of citizens of other participating States;
- Citizenship and political rights;
- Democracy at the national, regional and local levels.

Migrant workers, the integration of legal migrants

Increasing population mobility is one of the main characteristics of a modern society and brings new challenges and opportunities for countries to develop and implement migration policies that are both humane and pragmatic. Migration can be a positive factor in economic and social development for both migrant destination and origin countries, and can contribute to understanding among cultures and to fostering democratization trends. However, during an economic downturn, migrants are particularly vulnerable, and often become victims of negative stereotyping. Economic recession has a disproportionate impact on their wages, working conditions and unemployment levels. Meanwhile, those migrants who return to their country of origin rarely receive adequate support from their states.

Overall, the implementation by OSCE participating States of legislation prohibiting discrimination against migrants and awareness-raising within receiving societies about migrants and their role in and contributions to the receiving society are essential. Effective mechanisms for legislative redress and an easily accessible support system for victims of discrimination and exploitation are additional key pillars to protect migrants' rights. Providing opportunities for migrants to engage more fully in the economic and public life of the societies they are legally residing in is also a very important determinant of their empowerment. Measures such as inclusive citizenship laws, language education, orientation to community services and health care can be taken to strengthen this development. A comprehensive

approach to migration management, taking into account co-operation between countries of origin and destination, will provide a basis to deal with migration-related challenges.

The aim of this session is to review the implementation of OSCE commitments on the protection of the human rights of migrants and to assess the current situation and challenges within the OSCE region in light of the economic crisis.

Questions that could be addressed:

- Are participating States establishing inter-state dialogue between countries of origin and countries of destination?
- How do States ensure that migrant workers enjoy equal rights with nationals of the host countries with regard to conditions of employment and work and to social security?
- What are the participating States doing to provide migrants with the opportunity to participate in the public life of the receiving society?
- Are the participating States making sufficient efforts to provide information to migrants in their own languages on their civic rights and obligations?
- What are examples of legislation aimed at preventing structural and institutional discrimination against migrants?
- Are States developing special training programmes for law enforcement officers, government officials, civil servants, employers, etc. on the treatment of migrants, their rights, and their place and role in the host society?
- What are participating States doing to reintegrate returning migrants?
- How do participating States currently work with the private sector, unions, and others to address issues around migration?

Refugees and Displaced Persons

Since the adoption of the Helsinki Final Act in 1975, the OSCE region has seen political instability, which has resulted in large-scale cross-border migration and internal displacement in a number of OSCE participating States. Volatile socio-economic and political conditions coupled with weak state institutions may yet trigger future forced migratory movements in the OSCE region.

According to the Office of the UN High Commissioner for Refugees (UNHCR) and the Internal Displacement Monitoring Centre (IDMC), the OSCE region hosts some 2.5 million refugees and asylum-seekers, 2.5 million internally displaced persons and around 880,000 returnees, stateless and other persons of concern, which include particularly vulnerable groups of people, some living in protracted displacement situations. While the need for international protection and durable solutions remains, asylum and humanitarian space, as well as the principle of *non-refoulement* have been under strain.

Forcibly displaced persons continue to face obstacles in their access to protection, assistance and durable solutions in the OSCE region. Refugees and IDPs as well as stateless persons experience various direct and structural barriers to the enjoyment of their basic human rights. The primary responsibility for providing for the security and well-being of IDPs and refugees lies with national authorities. It is essential that assistance provided to them addresses the needs of the displaced and that the legal and physical protection provided is effective, thereby reducing secondary onward

movement.

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

The primary pre-requisite for provision of assistance and effective protection to the displaced is adherence by participating States to relevant OSCE commitments and international legal and normative instruments such as the 1951 Convention Relating to the Status of Refugees and its 1967 Protocol. In addition, States have recognized at the 2003 Maastricht Ministerial Council that the 1998 UN Guiding Principles on Internal Displacement, are a "useful framework for the work of the OSCE and the endeavours of participating States in dealing with internal displacement". The recommendations of the Special Thematic Event on Internally Displaced Persons and Refugees organized by the Human Dimension Committee of the OSCE Permanent Council in May 2011 include concrete proposals to OSCE participating States to strengthen OSCE commitments related to internally displaced, refugees and stateless persons.

OSCE field operations provide essential support to IDPs and refugees in conflict and post-conflict areas. Their assistance to the 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 forced displacement.

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 that field?
- Which mechanisms have states set up to protect refugees and IDPs from forced return to unsafe conditions?
- How can best practices from OSCE experience over the past two decades be collected and disseminated to relevant stakeholders?
- How do participating States facilitate the voluntary return in safety and dignity, or, if IDPs wish, the resettlement and (re)integration of IDPs?
- How can participating States effectively address and resolve protracted refugee situations?
- How do states ensure access of displaced persons to adequate shelter, education, documentation, employment and political participation?
- What role is civil society playing in assisting governments in providing support to refugees and IDPs? How can this role be strengthened?
- Is there a need for reinforced/new OSCE commitments in the area of human rights protection for refugees and IDPs, that can add value to efforts of other international organizations?

- How can forced displacement be approached comprehensively in all stages of the conflict cycle?
- How could partnerships with UNHCR and other relevant international organizations be strengthened?

Treatment of Citizens of Other Participating States

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

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:

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

Citizenship and Political Rights

In OSCE participating States, certain key political rights, guaranteeing participation in a country's political system through a variety of means, including elections, political party membership, civil society, and the legislative process, are often directly linked to citizenship/nationality. Nonetheless, while this link is evident – and indeed recognized by the OSCE commitments (Copenhagen 1990 speaks of “citizens” taking “part in the governing of their country”) it is not apparent that non-citizen residents should be denied all political and civic rights in the country where they live.

Under international law, this link is made only with respect to the political participatory rights to vote and to stand for office, which may be reserved for citizens. In addition, existing international human rights instruments prescribe entitlements relating to and necessary for political life (including freedoms of expression, information, the press, assembly, association and movement) for "everyone," not on the basis of citizenship.

This session will provide an opportunity to discuss the extent to which these rights and freedoms are exercised and what obstacles exist to their exercise, considering in particular how these rights may also be exercised by non-citizens. A positive tendency

to develop general integration programmes and to grant access to family reunion and long-term residence to non-citizens has been observed in the OSCE region. Access to political rights for non-citizens legally residing in a country, such as the right to vote and stand in local and regional elections, join a political party and enjoy basic political liberties, is often more circumscribed. Likewise, policies to promote non-citizens' participation in conventional public life are fairly underdeveloped. Therefore, the potential of non-citizens legally residing in OSCE participating States to be active members of the societies in which they live can be further explored.

Questions that could be addressed:

- Are participating States meeting their commitments concerning citizenship and political rights?
- With this in mind, what is the relationship between citizenship and the extent and/or criteria for enjoyment of specific political rights?
- How can participating States better ensure that their citizens to exercise their 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 best practices exist for the participation in civic and political life (in particular at the local or regional level) of resident non-citizens and how could these be effectively shared among the OSCE participating States?
- What active information policies and outreach strategies have been used by participating States to make non-citizens aware of their political rights and to involve them in political life? How have participating States facilitated access to positions of responsibility and representation for non-citizens?

Democracy at the National, Regional and Local Levels

The 1990 Copenhagen Document presents wide-ranging commitments for fostering democratic institutions, in conjunction with the respect and protection of fundamental freedoms and human rights and the rule of law. The participating States have also noted the importance of considering local government and decentralization in the strengthening of democracy (*inter alia*, Helsinki 1992), while appreciating the diversity of constitutional systems across the OSCE. The commitments recognize, however, that democracy at all levels of government requires multi-party pluralism – a point which was underlined at the 2011 Human Dimension Seminar on *The Role of Political Parties in the Political Process*.

Bringing governance to the lowest possible level, and thus closer to the citizen, has been recognized as a key element in advancing democratic participation. Other challenges include how to encourage the equal participation of women and men in political life, at all levels, recognizing in particular that relative gender equality at the local level is often not reflected on regional and national levels of governance. Practices regarding the political participation of migrants, dual nationals and non-nationals in political processes at the local, regional and national levels could also be considered

The institutions and field operations of the OSCE have been assisting participating States in various ways to strengthen democratic institutions at all levels of government – including national parliaments as well as local governments. Through

its comments on draft laws and its work with local experts to foster discussion and analysis based on OSCE commitments and best practices, ODIHR has been working to ensure that relevant legislation strengthens and advances democracy at all levels.

Questions that could be addressed:

- How can democracy be strengthened at the national, regional and local levels? What challenges are emerging to the effective implementation of OSCE commitments relating to democratic institutions?
- Building on the discussions during the 2011 Human Dimension Seminar, what role should regional and local parties and political organizations play in regional and local democracy? How can legislation and regulations on political parties enhance political pluralism and participation?
- How can the OSCE – particularly ODIHR, the field operations and other institutions – support participating States in ensuring greater political pluralism at all levels of government?
- How are participating States promoting participation of women and inclusion of minorities, at all levels of government?
- What best practices exist for the integration and participation of migrants and non-national residents into democratic processes at the national, regional and local level? What different practices exist regarding the participation of citizens with dual or multiple nationalities?
- How can democratic participation and pluralism be enhanced within the work of parliaments? What practices exist for ensuring that parliamentary minorities are included in parliamentary processes and governance? What role should there be for political organizations and parties outside parliament?

TUESDAY, 4 OCTOBER 2011

10 a.m.–1 p.m.

WORKING SESSION 12

Tolerance and non-discrimination I, including:

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

National Minorities

The OSCE High Commissioner on National Minorities has over the years addressed the various aspects of integration of society with respect for diversity, which remains highly topical throughout the OSCE region as participating States' strategies and policies continue to be developed. Being a tool of conflict prevention the HC aims at applying a rights-based approach to bring simmering tension to the attention of a number of States. Full and effective participation in public affairs by persons belonging to national minorities remains one of the key challenges and if not addressed often leads to conflict within a state and even between states. Representation in political parties and elected bodies and how to achieve results that enhance participation of all citizens rather than create additional sources of tensions or disappointments have been on the agenda throughout the region. Although formal mechanisms for consultation and other arrangements exist in an increasing number

of participating States, making them effective and based on meaningful dialogue does not automatically follow. Sharing experiences on how to enhance arrangements and mechanisms of participation in practice is still needed.

Part of effective participation is adequate representation in elected and executive bodies, in public service, law enforcement and the judiciary, which ideally should be roughly reflective of the proportions of minorities in society. Certain rights of national minorities at the sub-national level are also linked to the share of minority population in a given locality or region. Reliable demographic information is needed for policy making and monitoring of compliance with commitments. This year population censuses are taking place in a number of OSCE States, some of which have undergone significant demographic changes since the last census carried out in some cases a decade ago. The outcome of the censuses may impact on policies and accessible minority rights, and in some cases also can lead to an intensified interest by other States and at times lead to internal and external sources of frictions. At the same time, ethnic data collection is sensitive, and the principles of voluntary self-identification -- translating in the case of censuses into the minimum requirement of having open-ended lists of categories of belonging -- as well as guarantees of personal data protection according to internationally established norms must be observed. The experiences of formulating relevant census questions, respecting these principles, collecting reliable data and the consequences of the outcome of censuses all relate to the situation of national minorities and the respect of their rights as well as the formulation of adequate policies at national and sub-national level, which taking into account also the dynamics of the demographic situation and other transitional elements over the last ten years.

A third set of issues relating broadly also to participation concerns the undetermined legal status of individuals, including those belonging to national minorities. Lack of civic registration documentation and statelessness ensuing from this and other causes in several regions of the OSCE have been on the agenda for years, but remain unresolved. Serious consequences affecting the well-being and participation in society by individuals belonging to various vulnerable and minority groups, related commitments made by OSCE participating States and 2011 as the anniversary year of two important UN conventions, the 1951 Convention relating to the Status of Refugees and the 1961 Convention on the Reduction of Statelessness, all provide the basis for renewed effort in resolving outstanding issues through appropriate legislative, policy and implementation actions.

Questions that could be addressed:

- What issues relating to national minorities have been relevant in the preparation and implementation of population censuses? How has the principle of self-identification been ensured?
- How can essential disaggregated data, including on the socio-economic situation and proportionality of representation of national minorities, be collected in ways that ensure self-identification and personal data protection?
- How can the proficiency and use of the State language be supported while national minority languages are protected?
- What methods and policies are effective in providing positive incentives for the learning of the State language by persons belonging to national minorities?
- What positive examples are there in practice to reduce statelessness and undetermined legal status problems? What obstacles for the process exist and

how can they be overcome?

- Have integration policies been established and implemented and is there evidence regarding which measures have had a definite positive impact and/or examples of promising practice?
- Are there examples of concrete measures to promote effective participation in public affairs and of how the implementation and results can be monitored?

Preventing aggressive nationalism, racism and chauvinism

Developments over the last years regarding public discourse and political party programmes and nationalistic parties' increased electoral successes indicate that various strains of nationalism may be on the rise in many participating States, including at times worrisome elements of racism and xenophobia.

Questions that could be addressed:

- What do the OSCE commitments mean in terms of responsibilities to counter extreme nationalism and how can effective policies be developed that ensure continued commitment to inclusive societies, including by all mainstream political parties?
- How can populist xenophobic political discourse in its contemporary more sophisticated guise be effectively countered?
- What role do the media have in safeguarding democratic values of openness, equality and inclusion and how can their engagement on these issues be promoted with full respect for editorial independence?

3–6 p.m.

WORKING SESSION 13

Tolerance and non-discrimination II:

Review of the implementation of commitments on promotion of mutual respect and understanding:

- Responses to and prevention of 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.

Preventing and Responding to Hate Crimes in the OSCE Area and Combating Intolerance and Discrimination

Participating States have repeatedly condemned intolerance, discrimination and hate crimes and pledged to take action against them. Today, there are a broad range of commitments to combat intolerance and discrimination and promote mutual respect and understanding, including to prevent and respond to hate crimes. The OSCE commitments acknowledge that racism, xenophobia, anti-Semitism, discrimination and intolerance, including against Muslims, Christians, Jews, Roma and others is a major challenge to social cohesion and human rights across the OSCE region. These extreme and intolerant ideologies can result in violence affecting communities on a

wide scale, as recent tragic events in participating States have demonstrated.

The OSCE Ministerial Council decisions include commitments to take positive steps such as awareness-raising, developing educational tools, encouraging the establishment of national institutions and specialized bodies, and cooperating with civil society. 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." In 2009, the OSCE Ministerial Council adopted its first decision specifically devoted to the problem of hate crimes, stressing the need to review legislation, to assist civil society efforts, to collect reliable data, and to train police to respond to hate crimes.

These commitments were highlighted at the June 2010 High Level Conference on Tolerance and Discrimination in Astana. Among topics discussed at the conference were the role of legislation, law enforcement, education systems and the media, including online media, in addressing public manifestations of intolerance and promoting understanding through open dialogue.

Building on the High Level Conference, in 2011 the Lithuanian OSCE Chairmanship and ODIHR decided to co-organize three conferences in order to allow for more intensive discussion of: anti-Semitism in public discourse (Prague, April 2011), hate crimes and hate incidents against Christians (Rome, September 2011) and intolerance and discrimination against Muslims (Vienna, October 2011). These events were designed to highlight the specific nature and manifestations of intolerance experienced by different communities, and discuss best practices for combating them.

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, the measures taken to prevent and respond to hate crimes, including strengthening hate crime legislation, data collection, training of law enforcement officers and co-operation with non-governmental organizations, will be assessed.

Questions that could be addressed:

- How are participating States ensuring implementation of OSCE commitments in this area, particularly 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 to identify and implement 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, whilst recognizing the independent role they play?
- What challenges do States face in preventing and responding to violent manifestations of prejudice and intolerance? How are these challenges met?

- How can ODIHR and other OSCE institutions, including the three Personal Representatives of the Chairperson-in-Office on tolerance and non-discrimination issues, as well as field operations better support OSCE participating States in implementing their commitments on tolerance and non-discrimination?

WEDNESDAY, 5 OCTOBER 2011

10 a.m.–1 p.m.

WORKING SESSION 14

Specifically selected topic: Enhancing the implementation of OSCE commitments regarding Roma and Sinti:

- Effective responses to intolerance directed at Roma and Sinti: the role of public discourse, the media and civil society.

As early as in 1990, the OSCE participating States recognized the particular problems of Roma and Sinti as targets of racial and ethnic hatred and since then made repeated commitments addressing racial violence and intolerance perpetrated against them. Concerned by the continued racism, discrimination and violent manifestations of intolerance against Roma and Sinti, the participating States adopted MC Decision 8/09 with which they committed themselves to step up their efforts in promoting tolerance and combating prejudices against Roma and Sinti people as well as to unequivocally and publicly condemn any violence targeting Roma and Sinti, and to take all necessary measures to ensure access to effective remedies.

OSCE participating States have emphasized the importance of political leaders clearly and unequivocally condemning racial and ethnic hatred as well as violent acts motivated by discrimination and intolerance and consistently speaking out against acts and manifestations of hate. The essential role of free and independent media in countering prejudices was also recognized and in this respect the Action Plan on Roma and Sinti includes specific recommendations on combating negative stereotypes of Roma by the media.

These commitments were made against the backdrop that Roma and Sinti across the OSCE region - and more recently Roma migrants within Europe – continue to be a target of prejudiced portrayal in the media and of negative political discourse. In a number of OSCE participating States, politicians have openly articulated anti-Roma sentiments in order to gain support from the electorate or wider society and there have been repeated instances of anti-Roma positions expressed at the local level by politicians or public officials. Hostile or provocative public discourse concerning Roma and Sinti negatively impacts inter-ethnic relations and is able to deepen tensions and perpetuate prejudices.

The session will review progress made by participating States in implementing the OSCE commitments with regard to combating intolerance against Roma and Sinti with a special focus on the role of political leadership, media and civil society.

Questions that could be addressed:

- How do participating States meet their commitments to promote tolerance

and combat prejudices against Roma and Sinti people at national, regional and local level in order to foster their integration and prevent their further marginalization and exclusion?

- How do state authorities co-operate with Roma civil society in the promotion of tolerance and respect for diversity?
- What measures have been taken to counter negative stereotypes of Roma and Sinti in the media, taking into account the OSCE freedom of media commitments?
- What are the good practices that counter prejudices and biased portrayal of Roma in the media and promote tolerance, dialogue and respect for diversity?
- What are the challenges with regard to encouraging the media to refrain from stereotyping Roma and Sinti?

3–6 p.m.

WORKING SESSION 15

Specifically selected topic: Enhancing the implementation of OSCE commitments regarding Roma and Sinti (continued):

- Partnership between States and representatives of Roma and Sinti in the design and implementation of integration policies for Roma and Sinti.

The OSCE participating States recognized that only limited progress had been made in closing the gaps between Roma and Sinti and the wider society and reaffirmed their commitments for enhancing efforts to implement the OSCE Action Plan on Roma and Sinti with MC Decision 6/08 and MC Decision 8/09. The participating States further underlined the need to maximize Roma and Sinti ownership in policies that affect them and that Roma and Sinti communities should be partners and share responsibilities in the implementation.

Roma and Sinti can play a crucial role in helping that policies are adapted and implemented according to their specific needs in the OSCE participating States. The slogan „for Roma, with Roma“ became a guiding principle for the 2003 OSCE Action Plan on Roma and Sinti and relevant subsequent OSCE commitments. Throughout the OSCE region, mechanisms can be found enabling Roma and Sinti to participate - at minimum with an advisory/consultation role - in the policy design, monitoring, implementation or assessment of policies promoting their integration. Still, Roma and Sinti and in particular women from these communities are underrepresented in the decision-making bodies that concern them and have no strong public and political representation. Effective participation of Roma in the design and implementation of policies on Roma inclusion is also acknowledged as a core principle within the EU.

The session will identify progress and challenges with regard to enhancing Roma and Sinti active participation in the design, implementation, monitoring and evaluation of policies that affect them. Particular attention will be paid to reviewing the active participation of Roma and Sinti women in these processes.

Questions that could be addressed:

- How do the participating States enable and promote active participation of Roma and Sinti in design, implementation, monitoring and evaluation of policies that concern them?

- What mechanisms are in place to consult on a regular basis with Roma and Sinti with regard to policies promoting their integration?
- How do States enable Roma and Sinti women to play an active and equal role in decision-making and advisory bodies on policies that affect their communities?
- Through which bodies and mechanisms do participating States co-operate with Roma and Sinti, including migrants, in the development of inclusion policies and strategies promoting tolerance and social cohesion?
- How can OSCE further assist in promoting provisions of Action Plan and subsequent ministerial decisions?

THURSDAY, 6 OCTOBER 2011

10 a.m.–1 p.m.

WORKING SESSION 16

Tolerance and non-discrimination II (continued), including:

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

Equality of opportunity for women and men

Participating States recognize that “full and true equality between men and women is a fundamental aspect of a just and democratic society” (Moscow 1991). Equality of opportunity between women and men is recognized across the OSCE region as a fundamental aspect of a just, secure, and democratic society. In the 2004 OSCE Action Plan for the Promotion of Gender Equality and the Ministerial Council Decision 7/09 on Women’s Participation in Political and Public Life, participating States have committed to promote gender equality and equal opportunity for participation of women and men in political and public life. Likewise, in Ministerial Council Decision 14/05 on Women in Conflict Prevention, Crisis Management, and Post-Conflict Rehabilitation, participating States have recognized the importance of equal opportunities for women and men to participate in and shape security institutions, policies, and programmes. This Decision also drew attention to UN Security Council Resolution 1325 (2000) on the role of women in all levels of conflict prevention, crisis management and resolution, and post-conflict rehabilitation.

While significant advances have been made in promoting gender equality and women’s political participation in recent decades, women are still under-represented in governance structures across the OSCE region. Inequalities persist in both the private and public spheres on the basis of stereotypes and conventions maintained at both the state and societal level. A majority of participating States have undertaken measures to prevent and combat violence against women, and a number of participating States have adopted policies to facilitate women’s participation alongside men in the security sector. However, overall, there is a lack of adequate national mechanisms to ensure the effective implementation of these efforts.

The OSCE participating States should consider measures to achieve gender balance in

all legislative, judicial and executive bodies, in particular measures to “facilitate a more balanced participation of women and men in political and public life and especially in decision-making.” The participating States are encouraged to recognize the importance of promoting equal participation of women and men in political parties. National mechanisms for the advancement of women need to be strengthened, to increase their effectiveness in guaranteeing equality of opportunity for women and men and in safeguarding women’s rights more broadly.

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

The 2004 OSCE Action Plan for the Promotion of Gender Equality provides a comprehensive framework for action to promote equality of rights and opportunities among women and men, and to ensure effective gender-mainstreaming of all activities and structures across the organization. While progress has been achieved in mainstreaming a gender perspective into internal procedures, policies and programmes, gender mainstreaming has not been fully institutionalized across all OSCE structures. The Session will look both at implementation of the OSCE Action Plan overall as well as the particular challenges of applying the gender mainstreaming approach in all OSCE structures, including field operations.

Prevention of violence against women

Violence against women is rooted in structural inequalities between women and men, including gender-based discrimination. Key policy objectives for participating States in combating violence against women should include measures to *prevent* violence against women from occurring, comprehensive assistance to *protect* victims, and provision of rehabilitative *support* to address the long-term needs of victims of violence. Several participating States in the OSCE region have adopted comprehensive legal instruments for combating various forms of violence against women and are successfully implementing a wide range of preventive and protective approaches.

This session will serve to explore challenges and good practices in OSCE participating States to ensure effective equality of opportunity for women and men, implementation of the OSCE Action Plan for the Promotion of Gender Equality, and prevention of violence against women. It will also aim at advancing dialogue on the implementation of existing OSCE and other international commitments in this field.

Questions that could be addressed:

- What are the challenges and good practices of the participating States in ensuring equality of opportunity for women and men, preventing violence against women, and implementing the OSCE Action Plan for the Promotion of Gender Equality?
- What type of positive measures, legal and policy frameworks have proven successful in promoting women’s participation in political and public life, particularly in decision-making positions?
- How are the political parties, as gatekeepers of democracy, addressing the need to advance women’s participation and influence in democratic processes?
- What are the experiences of participating States in establishing effective national mechanisms for promoting gender equality?

- Should OSCE participating States consider reviewing or updating the 2004 Gender Action Plan? Should OSCE structures develop a specific set of indicators to measure progress in advancing gender equality, and better benchmark success and impact?
- What positive measures have OSCE States implemented to recruit, retain and promote women to decision making positions in the security sector?
- What efforts have OSCE participating States undertaken to sensitize all members of their security sector to issues that affect women?
- What measures are being undertaken by the OSCE participating States to prevent violence against women and provide effective protection and support services to victims?

3–6 p.m.

WORKING SESSION 17

Humanitarian issues and other commitments II, including:

- Trafficking in human beings;
- Implementation of the OSCE Action Plan to Combat Trafficking in Human Beings.

The OSCE Action Plan to Combat Trafficking in Human Beings was adopted in 2003 by participating States in recognition of the need to address human trafficking through strengthening national frameworks aimed at effective prevention, protection of the victims and prosecution of the perpetrators of trafficking. The implementation of the Action Plan and other OSCE anti-trafficking commitments still remains a challenge for many States, particularly in relation to ensuring access to justice and effective remedy, including compensation, for trafficked persons.

This topic will allow participating States to take stock of the implementation of commitments and developments in relation to trafficked persons' access to justice and effective remedies, including compensation. This session will be an opportunity for participating States to share and discuss experiences and good practice in removing legal and practical obstacles that trafficked persons face in accessing justice and effective remedies. It will also be an opportunity to present and discuss concrete recommendations for actions to enhance effective implementation of commitments in this area.

The right to effective remedies, including full information about available remedies, and access to justice are basic principles of the rule of law and human rights and, as such, well established in international law. The 1985 United Nations Basic Principles of Justice for Victims of Crime and Abuse of Power clearly sets out that victims are entitled to access to the mechanisms of justice and to prompt redress for the harm that they have suffered. It further specifies that judicial and administrative mechanisms should be established and strengthened, where necessary, to enable victims to obtain redress through formal or informal procedures that are expeditious, fair, inexpensive and accessible.

Participating States have confirmed the right to effective remedies and access to

justice in numerous OSCE commitments and documents. In recent years, participating States have also adopted specific commitments in relation to access to effective remedies and justice for victims of human trafficking (OSCE MC.DECs 8/07 and 5/08). They have committed themselves to ensuring that victims have access to justice (MC.DEC 8/07, paras 1, 7 and 11), including access, without undue delay, to counselling regarding their legal rights and the services available to them (MC.DEC 5/08, para 6); to consider elaborating or strengthening their legislation that offers them the possibility of obtaining compensation for damages suffered, including wages owed to them; and to ensure effective complaint procedures, where individuals can report in a confidential manner circumstances that might be indicative of a situation of trafficking. Finally, in the 2003 OSCE Action Plan to Combat Trafficking in Human Beings participating States agreed to consider measures to allow confiscated assets to be used to supplement government funding for programmes that address the needs of victims of trafficking in human beings and to compensate victims (MC.DEC 2/03, Annex III.1.5).

Practice shows, however, that access to justice and effective remedies is not yet a reality for trafficked persons. In many countries, key pre-conditions for effective access to justice are either not in place or not accessible to most trafficked persons: interpretation, rights information, residence status and assistance, including legal assistance, to claim rights and pursue – often lengthy – court and administrative proceedings. Victims without a regular immigration status are often legally or practically barred from accessing justice and claiming their rights, including compensation. Only in very rare cases do States provide them with adequate residence status and legal assistance to claim their rights and access remedies in criminal, civil or administrative proceedings. Further key challenges to effective access to justice and compensation are the lack of financial investigations and proper documentation of the victims' injuries during the investigation as well as the absence of adequate mechanisms and/or effective practices to seize and confiscate assets of traffickers and of corresponding mechanisms to use such assets for compensating the victims. General challenges to the rule of law, such as corruption and lack of a victims' rights culture, add to the trafficking-specific obstacles and also need to be addressed.

During the session, particular attention will be given to key findings from ODIHR's 2008 study on Compensation for Trafficked and Exploited Persons in the OSCE Region and related follow-up activities as well as the June 2011 Report of the United Nations Special Rapporteur on Trafficking in Persons, which focuses on the right to an effective remedy for trafficked persons, and the Rapporteur's proposed Draft Basic Principles on the right to an effective remedy for trafficked persons. The session will also draw from the work by the Special Representative and Co-ordinator for Combating Trafficking in Human Beings, and in particular from the outcomes of the recent *Alliance against Trafficking in Persons* conference "Preventing Trafficking in Human Beings for Labour Exploitation: Decent Work and Social Justice" (20-21 June 2011) and the *Alliance* Expert Seminar on Leveraging Anti-Money Laundering Regimes to Combat Human Trafficking (3-4 October 2011).

Questions that could be addressed:

- How are participating States implementing the OSCE commitments related to trafficking in human beings?
- How are States assessing trafficked persons' access to justice and effective

- remedies, including compensation, and what are their key findings?
- Which measures have States put in place to ensure victims of trafficking who are undocumented can claim their rights and access justice?
- What laws, policies and practices have States put in place to ensure all relevant justice actors – law enforcement, prosecutors and judiciary – are aware of the rights of victims of crime, including trafficked persons, and informed about their role in ensuring victims can effectively access these rights? How do States assess how effective these measures are?
- How are presumed trafficked persons and the already identified trafficked persons informed about their rights (and about the procedures to claim their rights effectively) and by whom? What special measures are in place for foreign victims, especially those who do not speak the language of the country, and for child victims?
- How do States ensure victims of trafficking have access to legal assistance and representation for claiming their rights in criminal, civil and administrative proceedings? What mechanisms and practices are in place and what good practices have States identified in this context?
- How many victims of trafficking have claimed compensation through criminal, civil and administrative mechanisms? How many have been awarded compensation and how many of these awards have resulted in compensation being received by the victim?
- How effective are the existing OSCE commitments in addressing trafficking for various forms of labour exploitation?

FRIDAY, 7 OCTOBER 2011

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 56 participating States, as well as OSCE ambassadors and the Heads of the OSCE institutions.

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

The Reinforced Closing Plenary Session will look at how direction can be given with regard to the effective follow-up of the discussions in the different working sessions and the recommendations that came out of these discussions in light of further discussions in the Permanent Council on the results of the HDIM as well as with regard to the preparations of the next OSCE Ministerial Council Meeting in Vilnius in December 2011.

- 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