



## **Human Dimension Implementation Meeting ODIHR activities**

**Tuesday, 10 October 2006**

### **Working session 12: Fundamental freedoms II,**

#### **including: Freedom of movement**

Despite the collapse of the Soviet Union more than fifteen years ago, Soviet-era civil registration regulations, known as *propiska*, remain largely unchanged in a number of countries in Eastern Europe and Central Asia. *Propiska*-based systems restrict the freedom of individuals to choose their place of residence within their own country. Moreover, they pose a significant barrier to developing durable solutions for the integration into society of migrant workers and internally displaced persons and the protection of their rights.

#### **Including Freedom of Assembly and Association; including follow up to the 30-31 March 2006 SHDM on Human Rights Defenders and National Human Rights Institutions**

The crucial contribution civil society makes towards building and maintaining a comprehensive security is reflected in the number of commitments OSCE participating States have made in support of civil society, non-governmental organisations (NGOs) and human rights defenders. In practice, while there is a need for providing a regulatory framework, human rights defenders and NGOs may face excessive and unjustified restrictions on their activities, including restrictions on the freedom of association and are imposed with stringent and cumbersome registration procedures and overly excessive reporting requirements. In other cases, individuals have been prevented from forming political parties, especially when in opposition. Some OSCE participating States require prior permission from the authorities for the holding of assemblies. However, international standards provide that a system of merely giving notice to the authorities is preferable. It allows regulation, but limits state control. Not all OSCE participating States will waive the requirement to give advance notice or obtain prior authorisation so as to allow spontaneous public assemblies to be held in response to important political or other developments.

There is thus a need in some countries to adapt restrictive procedures for obtaining permission for the holding of assemblies and registering NGOs. Curtailing freedoms of association and assembly impairs the development of democracy, including undermining democratic elections – a basis of legitimacy of any government – and has a harmful effect on the growth of civil society and on the activities of human rights defenders in particular. Another obstacle faced by human rights defenders is their portrayal, by some governments, as unpatriotic in an attempt to sway public opinion against the activities of groups or even against individuals themselves.

## **ODIHR activities relating to this Working Session/issue**

### **1. Freedom of movement**

The ODIHR has provided assistance to OSCE participating States in developing a conceptual and legal basis for the reform of population registration, and offers expertise in drafting new laws and regulations. In 2005-2006, the ODIHR continued its work in this area in Belarus and Moldova.

In Belarus, after ODIHR experts had elaborated a new concept for a draft law on population registration, the ODIHR organized a seminar for representatives of relevant government agencies to discuss the concept. Later, the ODIHR organized training visits for Belarusian government officials to Latvia, Estonia, and Sweden in order to study technical, legal, and conceptual aspects of the population registration systems in those countries. After the study visits, the concept was amended, improved, and discussed at a seminar organized by the ODIHR. It is expected that the draft law will be adopted in the next few months. In Moldova, the ODIHR has organized training visits for Moldovan government officials to Latvia, Estonia, and Finland in order to learn about the system of registration of permanent residents and foreigners in those countries. The ODIHR also provided an expert opinion on Moldova's new draft law on the protection of personal data, which was adopted in December 2005.

Further, the ODIHR has organized a number of conferences, seminars, and technical workshops to disseminate alternative concepts and to discuss draft laws on reforming population registration which have resulted in new laws on internal migration, freedom of movement, and choice of place of residence. The ODIHR conference "*Exchange of Experience on Reform of Population Registration Systems*", held in Kyrgyzstan in July 2005, brought together policy-makers and experts from CIS countries and the Baltic States. It was the first event of its kind devoted to population registration issues, and it served as a forum for presenting new ideas and showcasing achievements in reforming population registration systems and creating population data management systems. Participants agreed that there is a need to create stable, efficient, and transparent population registration systems, independent of political priorities, and recognized the importance of improving national legislation on registration issues, focusing on real, not formal, places of residence.

In co-operation with the OSCE Presence in Albania, the ODIHR is currently assisting and consulting with the Albanian Government regarding a new project on the modernization of the civil registration system and implementation of the address system. In May 2006, the ODIHR was requested by the Ministry of the Interior of the Republic of Albania to provide assistance and expertise in the drafting of a detailed project document for the modernization of the civil registration and address systems. The ODIHR and the Ministry of the Interior have agreed the framework and signed the Memorandum of Understanding regarding the provision of assistance and expertise.

## **2. Freedom of Assembly and Association**

Assessing compliance by OSCE participating States with their human dimension commitments and monitoring their implementation is a primary ODIHR activity. The ODIHR Human Rights Department Monitoring Programme does so by collecting, analysing and disseminating information regarding implementation of various OSCE human dimension commitments. The ODIHR supports efforts to protect freedom of assembly and association in a number of ways:

- (a) Offering expert legal advice to governments and OSCE field operations and by organizing meetings that provide a forum to discuss problem areas and suggest relevant solutions.
- (b) Developing Guidelines on the Freedom of Assembly. In order to finalize these, ODIHR has organised a series of roundtables in 2006 on this issue. The first roundtable was held in Tbilisi, followed by Belgrade and Almaty and will conclude later this October in Warsaw. The roundtables brought together a panel of experts with state officials, law enforcement officers, judges and representatives of civil society who have shared their experiences of freedom of assembly issues.
- (c) Giving an opportunity for governmental and non-governmental stakeholders to discuss and develop recommendations pertaining to freedom of assembly and association. One such conference, focussing on the situation in Central Asia, was held in Almaty last year. Conference participants adopted a set of recommendations, which included the following points for states to consider:
  - Taking steps to allow informal association, i.e., unregistered groups;
  - Simplifying NGO registration procedures;
  - Abolishing the mandatory re-registration of NGOs;
  - Replacing procedures that require prior authorization for public assemblies with a requirement for prior notification only;
  - Recognizing the need for state bodies to provide security for assembly participants;
  - Considering the possibility of introducing legislative provisions that would allow for mediation of disputes related to assemblies;
  - Ensuring transparency in all stages of the legislative process by publishing draft laws related to freedom of assembly and association.
- (d) The ODIHR developed a project in Kazakhstan training civil society representatives in monitoring peaceful assemblies. This training also included preparing a report which could be used as the basis for recommendations to the authorities on ways to improve national laws regulating freedom of assembly.
- (e) The ODIHR has also helped build the capacity of human rights defenders through human rights education and training. For example, in 2005-2006, two capacity building projects for NGOs from the regions in Armenia and Tajikistan were implemented. NGOs were trained in essential human

rights law, human rights monitoring, sustainable work of human rights NGOs and writing and advocacy skills.

Two Supplementary Human Dimension Meetings have been held on the topic of human rights defenders. In October 2001 on *Human Rights: Advocacy and Defenders* and on 30 and 31 March 2006 *Human Rights Defenders and National Human Rights Institutions: Legislative, State and Non-State Aspects*. The latter saw a number of recommendations, reaffirming the need for the OSCE to support human rights defenders. A special mechanism within the OSCE should be created that deals with the protection of human rights defenders and a contact point for liaison with national human rights institutions should be established in the ODIHR.