



HUMAN DIMENSION IMPLEMENTATION MEETING
24 September to 5 October 2012
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 2011, 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 2012 meeting, the Permanent Council adopted the agenda in its *Decision No. 1045 of 26 July 2012*. This annotated agenda is intended to provide participants with guidelines to prepare for active and constructive participation in the working sessions of the meeting.

Information on the modalities for conducting discussions at the HDIM will be provided in the meeting manual and, in due course, at http://www.osce.org/hdim_2012. 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, 24 SEPTEMBER 2012

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.

Efforts to agree upon and advance OSCE principles and commitments in the field of media freedom have been continuous since 1975, when, in the Helsinki Final Act, the participating States confirmed the right of the individual to know and act upon his rights and duties, and stressed the universal significance of human rights and fundamental freedoms¹.

In the decades that followed, a long list of commonly formulated and agreed obligations were adopted by the participating States, with the aim to ensure that the media can function freely and independently, and journalists can carry out their work under safe conditions.

However, the implementation of these commitments has proved anything but continuous, and we still see significant differences in the level of media freedom among participating States. We can also state that there is no region in the organization where the commitments have been fully implemented and media freedom cannot be further improved.

The session on media freedom this year will tackle the following topic:

- Current situation of media freedom in the OSCE, including the main threats to safety of journalists and to free expression offline and online.

It will build upon discussions at the June 2012 Dublin Conference on Internet Freedom organized by the Irish Chairmanship, which explored issues such as online challenges to freedom of expression and freedom of the media, Internet governance and human rights, and the use of social media and social networks. Although the participants of the Conference recognized that OSCE

¹ Final Act of the Conference on Security and Co-operation in Europe, 1 August 1975, Helsinki.
<http://www.osce.org/fom/31232>

commitments apply across all mediums and regardless of new technologies, implementation in national legislation remains a challenge.

In 2012 we have been confronted with the same obstacles to media freedom and free expression as in the last years. Assaults against journalists have continued on a wide range, including severe beatings, attacks, threats, blackmailing, imprisonment, interrogation, or detention.

Unfortunately, no significant improvement can be detected in the treatment of the media by the authorities, either. Many governments continue to regard the media as a dangerous platform that needs to be controlled and sometimes even silenced, instead of considering the media for what it is: an essential and unique tool of democracies that allows for every citizen to obtain and impart pluralistic information. Implementation of restrictive laws, such as provisions on libel or defamation, continues, and laws aimed at restricting the free nature of Internet have also continued to mushroom.

With resolute and public condemnation of violence against journalists and concerted efforts to put an end to the impunity of perpetrators, and with reforming the laws that limit free expression in so many innovative ways in so many of the participating States, the governments have the power to change this sombre picture. This year's discussion, as every year, is an important attempt to get closer to this goal.

Questions that could be addressed:

- How can the implementation of existing OSCE media freedom commitments by participating States be improved?
- 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, safety of journalists and access to information?
- How can participating States better ensure that the media can work freely and independently, and under safe working conditions?
- What is the responsibility of governments to put an end to impunity of perpetrators? How can governments better promote the need for thorough and professional investigations of violent crimes committed against journalists?
- What is the progress regarding decriminalization of libel and defamation in the OSCE area?
- What is the current state of Internet freedom in the OSCE?
- How can governments ensure that Internet regulation becomes minimal, designed only to help more forward the development of this borderless technology?
- How can the OSCE help ensure that the same rights that people have offline are also protected online, in particular freedom of expression?
- What is the role of civil society in media freedom advocacy?
- What is the role of journalists and journalists' association in media freedom advocacy?

TUESDAY, 25 SEPTEMBER 2012

10 a.m.–1 p.m.

WORKING SESSION 2

Fundamental freedoms II, including:

- Freedom of assembly and association;
- Freedom of movement;
- National human rights institutions 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. Respect for these rights helps ensure that all people in a society have the opportunity to express opinions, by creating associations or by peacefully assembling, that they hold in common with others on issues affecting individuals, groups of persons or matters of national interest. The right to assemble is guaranteed by major human rights treaties and by commitments made by OSCE participating States, inter alia, in 1990, in Copenhagen, reaffirming that “everyone will have the right of peaceful assembly and demonstration.” On the same occasion, 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.”

Instituting regulations which may affect the right of freedom of peaceful assembly in domestic law still poses a challenge. This challenge has become more complex as a direct result of the changing nature in which assemblies are organized, using modern technology. In addition, in some participating States civil society and other actors continue to report major difficulties in exercising this right often due to legal prohibitions and limitations. Often such difficulties are compounded by policing practices which do not meet international human rights standards, especially with regard to the excessive use of force and the unwarranted dispersal of peaceful assemblies. These obstacles run counter to the duty of States not only to protect the enjoyment of this fundamental right, but also to facilitate and promote its exercise. Similarly, national laws have tightened state control over civil society institutions; associations receiving foreign funding are often subject to pressure from State agencies especially, but not only, in the context of an overly wide interpretation of anti-terrorism legislation. Excessive administrative rules restrain the right to create associations and non-governmental organizations. NGO representatives are at times targeted for their activities, some facing trumped-up charges and some others paying with their lives for their activities.

To assist participating States in ensuring that their legislation and practices are consistent with their OSCE commitments and other international standards, ODIHR has developed a number of resources, including: *Guidelines on Freedom of Peaceful Assembly* and *Guidelines on Political Party Regulation*, both published jointly with the Council of Europe's European Commission for Democracy through Law (Venice Commission); a *Handbook on Monitoring Freedom of Peaceful Assembly*; and *AssociatiOnline*, an interactive website.

The session aims to discuss good practices and challenges regarding the implementation of the rights to freedom of peaceful assembly and association. The session will also address how the OSCE, its institutions and field operations can better assist OSCE participating States in the implementation of their commitments on freedom of assembly and association.

Questions that could be addressed:

- What kind of legal and regulatory framework best contributes to the full enjoyment of the rights to freedom of assembly and association?
- How can participating States respond to challenges and opportunities offered by new technologies in order to promote the full implementation of the rights to freedom of assembly and association?
- How can the police and other law enforcement agencies better facilitate and protect peaceful assemblies? How can current challenges in regulating and policing assemblies be addressed effectively?
- How can effective co-operation and dialogue between civil society and participating States on freedom of assembly and association be fostered?
- How can independent monitoring contribute to freedom of assembly and association and how can the State facilitate such monitoring?
- How can the right to an effective remedy to undue State interference be implemented in cases involving the right to peaceful assembly and association?
- 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?

Freedom of movement

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 the 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.

In many OSCE participating States, citizens are required to register their place of residence with relevant authorities. While registration information is used for purposes of planning and delivery of state services and to contact people, it

also decisively determines to what extent people enjoy certain basic rights. In many OSCE participating States the regulation of residency registration has served as one of the cornerstones of modern administration, facilitating democratic governance and the upholding of fundamental civil and political rights as well as socio-economic rights, whereas it has also been used to restrict freedom of movement in a number of participating States.

States are responsible for guaranteeing freedom of movement rights to their citizens which includes the right to leave and return to their state. However, a few states continue to restrict the right to leave the state by requiring exit permits, through demand of passports for political reasons, or as a result of arbitrary decisions by border officials.

In the context of promoting cross border human contacts, participating States have committed themselves on the basis of the Helsinki process and the 1990 Copenhagen Document to encourage mutually beneficial steps to clarify rules and simplify procedures so as 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. Facilitating increasingly liberalized cross-border travel requires that certain issues of a 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. The facilitation of cross-border travel is often thought to result in an influx of people across borders which may increase the administrative burden on participating States and require increased border management by first-entry countries, as a result of increased mixed migration flows, both for economic and humanitarian reasons. Facilitating visa liberalization 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.

Consideration of this topic will provide an opportunity for participants 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:

- How has the commitment of OSCE participating States to “facilitate wider travel by their citizens for personal or professional reasons” (Helsinki, 1975) been implemented? Have they indeed gradually simplified and administered flexibly the procedures for exit and entry from and into other States? Have fees for visas and official travel documents been gradually lowered?
- Are participating States fully implementing their commitments concerning freedom of movement? What problems are they experiencing in the implementation process?
- What specific steps could participating States take to facilitate freer

movement in the context of the protection and promotion of human rights and fundamental freedoms?

- How can participating States ensure unhindered movement across borders and within their territory of persons representing OSCE structures, other intergovernmental bodies, and national or international non-governmental organizations as well as individuals engaged in monitoring the implementation of commitments undertaken in the human dimension of the OSCE or providing assistance to enhance their implementation?
- Do existing residency registration frameworks in OSCE States provide sufficient safeguards for the protection of freedom of movement and choice of place of residence?

National human rights institutions 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 realization of human rights by processing individual complaints, identifying gaps, 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. Moreover, in a number of participating States, NHRIs have been transformed in terms of their mandate or existing institutions have been merged. Such processes should take place through broad-based consultations and with a view to strengthening adherence to the Paris Principles. At the OSCE Supplementary Human Dimension Meeting in April 2011, participating States discussed the existing good practices and challenges NHRIs face in exercising the mandate effectively and efficiently.

Civil society can contribute significantly to the promotion and protection of human rights and fundamental freedoms. 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, counseling and rehabilitation, and provide human rights education and training. In fact, 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.

OSCE participating States have committed “to ensure effectively the rights of the individual to know and act upon human rights and fundamental freedoms, and to contribute actively, individually or in association with others, to their promotion and protection...” (Copenhagen 1990). 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.

Questions that could be addressed:

- What are the roles and responsibilities of states in relation to creating an enabling environment for civil society?
- How can the relationship between civil society and NHRIs be strengthened? Are there limitations? What are examples of good cooperation between NHRIs and the judiciary and parliament?
- How are recommendations by NHRIs implemented in practice? What are the key challenges?
- What are examples of good practices in relation to restructuring of NHRIs that ensure the effectiveness and the preservation of independence of the institution? What have been some key challenges?

Human rights education

In the Moscow Document (1991) the OSCE participating States affirmed that human rights education (HRE) is fundamental and that it is therefore essential that their citizens are educated on human rights and fundamental freedoms. They have also committed to encourage the promotion and protection of human rights and fundamental freedoms in educational institutions (Vienna Document, 1989), as well as to design effective human rights-related curricula and courses for students at all levels, including those attending military, police and public service schools (Moscow Document). States have the primary responsibility to promote and ensure human rights education and training, which in practice means that there should be a system in place ensuring that people learn about human rights throughout their lives. To assist participating States in implementing effective teaching about human rights, 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 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. In support of the above OSCE commitments and to contribute to the implementation of the UN plan of action, ODIHR is launching two other documents to support quality programming and evaluation - Guidelines on HRE for secondary school students and Guidelines on HRE for law enforcement officials.

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 good practices in human rights education and training exist in participating States?
- What are the main obstacles to the implementation by participating States of their key commitments in the area of human rights education and training?
- How can state institutions and non-governmental organizations co-operate effectively in the area of human rights education?
- What are the most effective ways of introducing a human rights component into training for police and other law enforcement officials so that they are more sensitive to human rights issues while fulfilling their professional duties?
- How can OSCE contribute to strategic development of human rights education in participating States?

3–6 p.m.

WORKING SESSION 3

Humanitarian issues and other commitments, including:

- Migrant workers, the integration of legal migrants;
- Refugees and displaced persons;
- Treatment of citizens of other participating States.

The aim of this session is to provide a forum for participants to address humanitarian issues and other commitments with a particular focus on a range of questions related to voluntary and forced migration. Participants may also wish to consider the exercise of economic, social and cultural rights

insofar as they relate to the human dimension, in particular the requirement to ensure that they can be enjoyed by everyone without discrimination. This can become an issue at times when the need to reduce expenditure may result in decreased access to these rights by persons belonging to groups which are disadvantaged or face discrimination, such as women and national minorities.

Migrant workers, the integration of legal migrants

Over time, in the OSCE region, a number of participating States have transformed from being predominantly countries of origin of migrants into countries with sizable immigration flows. This has resulted in a variety of renewed challenges both to the receiving societies and the migrants themselves. For migrants, various direct and indirect barriers to the exercise of their civil and political rights, as well as economic, social and cultural rights continue to constitute a challenge. For the receiving countries in turn, the social cohesion of their societies has been put under strain. Although commendable efforts have been exerted by OSCE participating States in tackling these challenges, progress across the OSCE region remains uneven. As a result, many migrants continue to face obstacles to participation in the life of the societies of receiving countries and their potential as active and contributing residents of OSCE participating States remains untapped.

Recognizing the importance of migrants' integration, OSCE documents provide specific commitments on enabling migrants to participate in the life of the society of the participating States (Moscow 1991). These include creation of conditions, which will develop harmonious relations between migrant workers and the rest of society, among others by familiarizing migrants and their families with the language and social life of the societies they live in (Helsinki 1992), encouraging migrants to actively pursue their integration (Budapest 1994, Madrid 2007), combating discrimination and violence against migrant workers (Maastricht 2003 Decision, Madrid 2007) and the development or reinforcement of national plans for migrant integration, in which migrants should actively participate (Madrid 2007). Finally, ODIHR was directly called on by the 2003 OSCE Maastricht Ministerial Council to reinforce its activities concerning migrant integration.

Overall, the implementation by OSCE participating States of legislation prohibiting discrimination and intolerance against migrants and awareness-raising within receiving societies about migrants and their role in and contributions to receiving societies is essential. Well-established specialized law enforcement institutions 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 an important element 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 migrants' human rights and to assess the current situation and challenges within the OSCE region in this sphere. This session can also be used to highlight and to follow up on previous meetings devoted to migration issues, including discussions of intolerance against migrants as a specifically selected topic at the 2010 OSCE Review Conference sessions in Warsaw and Astana.

Questions that could be addressed:

- Are participating States establishing inter-state dialogue between countries of origin and countries of destination?
- How do participating States ensure that migrant workers enjoy equal rights with nationals with respect to access to employment and social services?
- 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 participating 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?
- What steps are migrants taking individually and through representative organizations to actively pursue their integration in participating States of which they are residents but not citizens?

Refugees and displaced persons

Since the adoption of the Helsinki Final Act in 1975, the OSCE region has seen political instability, which has often resulted in large-scale cross-border 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 Internal Displacement Monitoring Centre (IDMC), the OSCE region hosts some 2.5 million refugees and asylum-seekers, 2.5 million internally displaced persons and an estimated 880,000 returnees, stateless and other persons of concern. These include particularly vulnerable groups of people, such as women and minors; many of which continue to endure protracted displacement. 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.

OSCE field operations provide essential support to IDPs and refugees in conflict and post-conflict areas. Their assistance to national authorities in the development of appropriate strategies for voluntary return or resettlement, minority protection, property restitution, and reintegration of refugees and displaced persons in their places of origin has been crucial to addressing the consequences of displacement. Despite the efforts invested, many forced migrants 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. As the primary responsibility for providing security and ensuring the well-being of IDPs and refugees lies with national authorities, it is essential that assistance provided to the displaced addresses their needs and that the legal and physical protection is effective, thereby reducing the need for secondary onward movement.

A prerequisite 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 endeavors of participating States in dealing with internal displacement."

Accordingly, the aim of this session is to review the implementation of OSCE commitments on refugees and displaced persons, and to assess the current situation and challenges within the OSCE region in this area.

Questions that could be addressed:

- How are participating States implementing their commitments concerning refugees and IDPs? How can OSCE institutions, field operations and other executive structures best assist the participating States in this field?
- Which mechanisms have States set up to protect refugees and IDPs from forced return to unsafe conditions?
- Are there models of co-operation between state authorities and non-governmental organizations in the planning and framing of voluntary return and reintegration programmes for IDPs and refugees? 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 do participating States ensure access of displaced persons to adequate shelter, education, documentation, employment and political participation?
- How do participating States assure family reunification of displaced persons?
- What role is civil society playing in assisting governments in providing support to refugees and IDPs? How can this role be strengthened?

Treatment of citizens of other participating States

Free movement of citizens of other participating States is 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 legislation.

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?

WEDNESDAY, 26 SEPTEMBER 2012

10 a.m.–1 p.m.

WORKING SESSION 4

Rule of law I, including:

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

Democratic lawmaking

Legislation should emerge as the result of a planned and co-ordinated process structured to provide adequate time for preparation, internal and public consultation and parliamentary consideration. In Copenhagen 1990 and Moscow 1991 participating States agreed that laws should be formulated and adopted “*at the end of a public procedure*” that “*reflect[s] the will of the people, either directly or through their elected representatives*”. Thus, an effective and efficient lawmaking system is also marked by openness and transparency within the government and the parliament: those individuals and groups of individuals who will be affected by the proposed legislation should be provided with an opportunity to comment on relevant policy options and ensuing draft legislation.

While laws are often passed with the best intentions in response to pressing social needs, it has been observed that limited attention is paid to ensuring that the pre-conditions for effective implementation of legislation exist. Often, political priorities prevail over transparent and inclusive procedures. Broad consultations with stakeholders outside parliament and government would increase the probability that adopted legislation yields certain consensus and is, thereby, properly implemented. Transparency requires public deliberations, which are a necessary prerequisite for a functioning democratic government since democracy is also about the responsiveness of governments to the demands and needs of society at large. This implies an effective interaction with civil society and various interest groups as well as the ability to take various views and interests into consideration in policy and lawmaking processes.

In addition to having a public and transparent drafting process, it is necessary that the legislation itself, once adopted, is accessible to the public. In modern democracies, public authorities are under an obligation to provide for access to legal norms: the Copenhagen Document (1990), par. 5.8, provides that *“legislation, adopted at the end of a public procedure, and regulations will be published, that being the condition for their applicability. Those texts will be accessible to everyone.”* New technologies have created additional opportunities for sharing information and providing such access, but need to be adapted to the conditions of specific OSCE participating States.

This session will focus on what measures OSCE participating States should undertake to facilitate a more effective and efficient framework governing lawmaking and access to legislation, especially in light of transparency and inclusiveness.

Questions that could be addressed:

- What should OSCE participating States do to facilitate effective interaction between the regulating authorities, civil society and other relevant stakeholders throughout the lawmaking process? How can the lawmaking process be improved to facilitate public participation?
- What measures should OSCE participating States undertake to streamline an effective consultation process? What steps should be taken to make the lawmaking process at both governmental and parliamentary levels more open to public scrutiny?
- How can new technologies facilitate public participation in the lawmaking process as well as public access to both draft and enacted laws and regulations?

Independence of the judiciary

An independent judiciary is at the core of a democratic order and the rule of law, as it falls to the courts to ensure that no-one is above the law. Judicial independence is a prerequisite for performing this function. The participating States have long recognized the importance of the independence of the judiciary: most recently, they reaffirmed their commitment in the Ministerial Council Decision on *“Further strengthening the rule of law in the OSCE area”*

(Helsinki 2008). In Moscow in 1991, participating States committed themselves to respect relevant international standards and to ensure that the independence of the judiciary is guaranteed by constitution or law and respected in practice.

Independence of the judiciaries in many participating States still needs to be further enhanced. Credible reports indicate that judges continue to experience attempts at undue influence. Increasingly, 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 generates sentiments of injustice in society.

In fulfilling its role to assist participating States more efficiently in strengthening 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 and the role of court chairs; judicial selection and appointment; and accountability of judges. Participating States are encouraged to consider these policy suggestions 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 three branches of power involved in judicial administration, including in areas such as the judicial budget, and selecting and disciplining judges? What are the checks and balances in the area of judicial administration?
- Which bodies are involved in administering the judiciary, how are they composed and what are their respective tasks?
- How is transparency ensured in procedures for selecting, promoting and evaluating the performance of judges?
- How is a representative and pluralistic composition of the judiciary ensured?
- Where Heads of State or Ministers of Justice appoint and promote judges, how is their discretion limited to prevent arbitrary decision-making?
- How can the OSCE further assist participating States in efforts to strengthen judicial independence?

Right to a fair trial

Participating States have solemnly declared that fair trial rights are among the elements of justice which are essential to the full expression of the inherent dignity and of the equal and inalienable rights of all human beings (Copenhagen 1990). Central to the notion of a fair trial are the principle of access to justice and the right to independent, competent and effective legal

representation. As stated by the UN Human Rights Committee: *“lawyers should be able to advise and to represent persons charged with a criminal offence in accordance with generally recognized professional ethics without restrictions, influence, pressure or undue interference from any quarter”* (ICCPR General Comment 32).

The principle of access to justice and the right to defence operate as a bulwark against abuse of criminal proceedings for political and other non-permissible purposes. A fair trial is thus not exclusively dependent on the performance of judges, but also on the performance of lawyers and prosecutors. Frequently, fair trial violations are the result of errors that occur in the investigative process, as well as shortcomings in providing access to justice, including access to the courts and legal counsel. Recurring concerns relate to frequent instances where defence lawyers are penalized for the lawful performance of their duties.

Participating States have agreed to accept the presence of observers at trials to ensure greater transparency in the implementation of their human dimension commitments (Copenhagen 1990). Trial monitoring has proven to be a valuable tool to collect objective information on the implementation of fair trial rights, enabling OSCE field operations and ODIHR to supply targeted recommendations and assistance for justice reform efforts. ODIHR together with OSCE field operations has developed a *Legal Digest of International Fair Trial Rights* aiming at building the capacity of legal practitioners, including defence lawyers, by providing them with a comprehensive overview of fair trial rights coupled with practical checklists based on the experience of OSCE trial monitoring operations.

Questions that could be addressed:

- Do participating States allow for early access after arrest or detention to legal counsel? Do they provide for the necessary conditions enabling the preparation of an effective defence, including access to the case file?
- What measures are taken by the participating States to address some of the challenges related to access to a lawyer and the right to be represented by legal counsel after arrest or detention and during all stages of criminal proceedings?
- Is the procedural balance of powers between different actors, including judges, prosecutors and legal counsel sufficiently safeguarded? Particularly, how are participating States ensuring that prosecutorial powers are in check and that the equality of arms principle is upheld?
- Is the independence of the legal profession recognized and protected in law and in practice? Do bar associations defend their members from political interference?
- Is the confidentiality of lawyers' files and lawyer-client communication protected adequately under law and in practice?
- What measures are undertaken by participating States to ensure that lawyers perform their work professionally and without fear of retaliation in connection with their work?

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

In Vienna 1989, participating States pledged to impose the death penalty only for the most serious crimes in accordance with the law and not contrary to their international commitments. At the 1990 Copenhagen Meeting, States agreed to exchange information on the question of the abolition of the death penalty and to keep that question under consideration. States also pledged to make available to the public information regarding the use of the death penalty, and noted the activities of non-governmental organizations in the field of capital punishment. These commitments were reaffirmed at the 1991 Moscow Meeting.

Developments since last year's reporting at the HDIM confirm the global trend towards abolition of the death penalty. There are now 51 abolitionist States in the OSCE region. On 1 December 2011, the Parliament of Latvia adopted amendments to several laws in order to abolish the death penalty in all circumstances. The amendments entered into force on 1 January 2012 effectively abolishing the death penalty in all circumstances. In the United States of America, in April this year, the State of Connecticut abolished the death penalty for all future cases. In addition, the State of Oregon declared a moratorium on the death penalty in November 2011. The moratorium applies to all those currently awaiting execution.

Questions that could be addressed:

- What further measures can be taken to make available to the public information regarding the use of the death penalty?
- Have States that retain the death penalty considered the implementation of humane alternatives to the death penalty?
- Which fair trial issues are of concern in cases involving death penalty?
- What are some of the experiences of OSCE participating States that have a moratorium on executions in place that can be shared?

Prevention of torture

Reflecting international human rights and humanitarian law, participating States have made clear commitments prohibiting torture and other cruel, inhuman or degrading treatment or punishment. OSCE commitments, including the Copenhagen Document (1990), are unequivocal with regard to the prohibition of torture. Moreover, in Ministerial Council Decision 12/05, participating States were urged to give early consideration to signing and

ratifying the UN Optional Protocol to the Convention Against Torture (OPCAT) which entered into force in 2006.

Despite this, torture and other forms of ill-treatment continue to exist in varying degrees in a number of participating States. In some cases, institutional practices such as reliance on confessions or admission of information extracted under torture in courts undermine efforts to eliminate torture. Limitations on access to places of detention and the failure to hold perpetrators accountable and provide redress to victims also have a negative impact on torture prevention. Legal frameworks may not comply with international standards, or may not be fully implemented. In the context of the fight against terrorism, challenges have arisen to the absolute prohibition of torture.

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

Questions that could be addressed:

- What difference is the establishment of National Preventive Mechanisms under OPCAT in an increasing number of OSCE participating States making? What are some good practices and what are key challenges?
- Given the clear commitments, what systemic/institutional factors make it so challenging to eliminate torture? Which changes are needed to prevent torture, and what is required for such changes to take place?
- How can ODIHR's programmes and expertise in such areas as NHRIs, human rights education and training, and protection of human rights while countering terrorism assist participating States in meeting their anti-torture commitments?

Protection of human rights and fighting terrorism

Counter-terrorism measures that violate human rights may have counter-productive effects. Perceived as unjust and discriminatory, such measures may increase support for violent extremism that lead to terrorism and, in doing so, diminish security and stability in the long term. On the contrary, human rights-compliant counter-terrorism strategies would not only be more effective to achieve security but would also comply with a state's obligations to protect fundamental rights and freedoms, in particular the right to life. The OSCE cross-dimensional approach to security places human rights at the very core of any comprehensive and effective response to terrorism. The OSCE Bucharest Plan for Combating Terrorism (2001) and the OSCE Charter on Preventing and Combating Terrorism (2002) affirmed that responses to the threat of terrorism must not unlawfully infringe upon, damage or destroy the very standards, principles and values of human rights, rule of law and pluralistic democracy. Moreover, they emphasized that the struggle against

terrorism is not a war against religions or peoples, and that anti-terrorist action is not aimed against any religion, nation or people.

The enjoyment of many human rights and fundamental freedoms has been impacted in the counter-terrorism context. Current efforts to prevent terrorism may put at risk the right to equal treatment and non-discrimination, the respect for private and family life, the freedoms of expression, association and assembly and the freedom of religion or belief. Counter-terrorism measures and practices may also undermine the absolute prohibition of torture and cruel, inhuman or degrading treatment or punishment as well as the protection of the right to life. 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. The right to a fair and public hearing within a reasonable time before an independent and impartial tribunal may also be impacted.

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, while any limitations are legitimate and proportional?
 - counter-terrorism practices do not violate the absolute prohibition of torture and other ill-treatment and respect the principle of *non-refoulement*?
 - preventive efforts are not discriminatory and do not interfere with the respect for private and family life, the freedoms of expression and of religion or belief?
 - persons suspected of terrorism are not being held in detention arbitrarily, unlawfully, incommunicado, without access to a lawyer or without remedy?
 - persons suspected of terrorism are tried without undue delay by impartial and independent tribunals in accordance with fair trial standards?
 - 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 toward fulfilling commitments in this area?

THURSDAY, 27 SEPTEMBER 2012

10 a.m.–1 p.m.

WORKING SESSION 6

Specifically selected topic: Roma/Sinti and, in particular, empowerment of Roma women

The aim of this session is to assess what leads to Roma women attaining success and what are the barriers on their road to it. There are only a few

Roma women who became role models for the community because of their successful professional careers in various areas of life, such as politicians, artists or human rights advocates for Roma rights. The Special Day on Roma and Sinti will particularly focus on Roma women and illustrate their success stories.

The session will review the progress made in implementation of the provisions of the Action Plan on Improving the Situation of Roma and Sinti adopted by the OSCE participating States (Maastricht MC Decision 03/2003), in particular related to Roma and Sinti women. Furthermore, the OSCE Parliamentary Assembly's (PA) Resolution on Promoting Policies on Equality between Women and Men of the Roma Population from July 2011 and implementation of the participating States' national Roma Strategies, specific programs and initiatives to empower Roma women will be assessed.

The 2003 OSCE Action Plan on Roma and Sinti drew attention to the specific situation of Roma and Sinti women and requested participating States to systematically mainstream Roma and Sinti women issues in all relevant policies addressing the Roma and Sinti situation. Last year's OSCE PA Resolution encourages participating States to foster positive measures and ensure equal opportunities to Roma women in accessing services and rights.

Roma and Sinti women are particularly vulnerable as they face multiple forms of discrimination. Available data demonstrate that Roma and Sinti women are the most disadvantaged in all areas of life compared with Roma men or non-Roma women whether it relates to education level, employment rate, health status, reproductive rights, and exposure to trafficking or domestic violence.

By illustrating individual successes of Roma women, this session will provide evidence on how Roma women can overcome numerous barriers and obstacles posed by multiple forms of discrimination and attain success in their personal and professional life. The session will identify good practices and measures for enhancing full participation of Roma and Sinti women in all areas of life and combating discrimination against them.

Participating States and civil society are encouraged to share information about policies and initiatives they have implemented to successfully address multiple forms of discrimination against Roma and Sinti women and to empower them.

Questions that could be addressed:

- What type of measures/policies have been undertaken by the responsible authorities to address the specific position of Roma and Sinti women and what progress has been achieved since their implementation?
- How can Roma women overcome numerous barriers and obstacles posed by multiple discrimination and attain success in their personal and professional life?
- What are good practices of the participating States in ensuring equality of opportunity for Roma and Sinti men and women?

- What type of positive measures, legal and policy frameworks have proven successful in promoting Roma and Sinti women's participation in political and public life, particularly in decision-making positions?

3–6 p.m.

WORKING SESSION 7

Specifically selected topic: Roma/Sinti and, in particular, empowerment of Roma women (continued)

There are some efforts on empowering Roma and Sinti women; these are often initiatives by Roma and Sinti women themselves, as well as support programs by civil society; participating States' gender equality measures; and international organizations' women support projects. There is an increase of Roma and Sinti women youth studying at universities. They are an asset for the Roma and Sinti women networks and communities.

Roma and Sinti women initiatives aimed at their empowerment may face a double challenge by being perceived as undermining traditional male roles in Roma communities on one hand, and being disconnected from mainstream efforts of women aimed at ensuring and promoting gender equality on the other hand. Both challenges need to be addressed: first, promoting women's empowerment while preserving culture and traditions; and second, seeking points of contact and support of mainstream women's organizations for the Roma and Sinti women's efforts.

Roma and Sinti women empowerment could also benefit from the OSCE Action Plan for the Promotion of Gender Equality. Gender equality is a cross-cutting principle of any public policy in participating States and a prerequisite for the empowerment. Gender equality policy is visible in parties' politics and elections in some participating States, though in the Roma communities gender mainstreaming remains a challenge. The few positive examples of Roma women empowerment through party politics should serve as a good practice to follow. Providing voice and enabling networking as well as supporting Roma and Sinti women organizations is another good practice to be shared and from which lessons can be learned.

This part of the session should therefore focus on initiatives and organizations set up for Roma and Sinti women empowerment. Participating states and civil society representatives are encouraged to share information about policies and initiative they have implemented to foster Roma and Sinti women empowerment and promote good practice in this area.

Questions that could be addressed:

- What type of measures/policies have been undertaken by the responsible authorities to promote Roma and Sinti women organizations and what progress has been achieved since their implementation?

- What are the recommended ways for Roma and Sinti women and civil society to overcome numerous barriers and obstacles in obtaining the voice and participation in public and political life?
- What does it take to have mainstream political parties promoting Roma and Sinti women's rights and empowerment?
- How can the OSCE participating States and international organizations contribute to empowerment of Roma and Sinti women?

FRIDAY, 28 SEPTEMBER 2012

10 a.m.–1 p.m.

WORKING SESSION 8

Humanitarian issues and other commitments (continued), including:
– Implementation of the OSCE Action Plan to Combat Trafficking in Human Beings.

OSCE participating States have committed themselves to promoting a comprehensive human rights-based and victim-centred approach to combating all forms of trafficking in human beings, as reaffirmed by the Vilnius Ministerial Declaration on Combating All Forms of Human Trafficking (MC.DOC/1/11/Corr.1, 7 December 2011), through national, regional and international arrangements. At the 2012 OSCE Human Dimension Seminar on the *Rule of Law Framework for Combating Trafficking in Human Beings* (Warsaw, 14-16 May 2012), participants recognized the fundamental importance of a strong legal framework in all areas of anti-trafficking action – protection, prosecution and prevention. Key recommendations from Seminar participants highlighted the need for States to establish effective and inclusive National Referral Mechanisms (NRM), to guarantee protection and provision of legal assistance and access to justice for victims of trafficking, and to undertake measures to ensure protection of victims' rights, including in the process of return to countries of origin or permanent residence.

The importance of establishing an effective NRM has been confirmed by the participating States in numerous OSCE commitments and documents. The *OSCE Action Plan to Combat Trafficking in Human Beings* recommends to participating States to establish NRMs by creating a co-operative framework within which participating States fulfil their obligations to protect and promote the human rights of the victims of THB in co-ordination and strategic partnership with civil society and other actors working in this field (MC. Dec. No. 2/03, Annex V.3.1). This effort is supported by a practical handbook - *National Referral Mechanisms: Joining Efforts to Protect the Rights of Trafficked Persons* – developed by ODIHR in 2004.

This session will allow participating States to take stock of the implementation of commitments and developments in relation to effective NRMs, as well as other procedures aimed at identifying and protecting victims and safeguarding their human rights, including in the process of return. The session will highlight the continued need, as part of an effective NRM, to

strengthen co-operation and co-ordination among law enforcement personnel, labour inspectorates, social protection units, medical institutions, immigration and border service officials, civil society organizations, victim support services, and the business community, as well as other relevant actors (MC. Dec. No. 14/06, para 2).

While participating States are called upon to harmonize investigative and prosecutorial efforts with victim assistance through the establishment of appropriate mechanisms (MC. Dec. No. 2/03, Annex V.3.4), practice shows that legal provisions guaranteeing victims' rights protection and assistance, including protection for their families, are often lacking. Trafficked persons frequently lack assistance, including legal assistance, to claim rights and pursue administrative and court proceedings. Victims of trafficking - particularly those who find themselves in an irregular migration situation - continue to face legal or practical obstacles that prevent them accessing justice and effective remedies, including compensation. As discussed at the 2012 Human Dimension Seminar and other OSCE anti-trafficking events, as well as high-level *Alliance against Trafficking in Persons* Annual Conferences hosted by the OSCE Special Representative and Coordinator for Combating Trafficking in Human Beings, participating States should guarantee provision of legal assistance to the victims of trafficking through appropriate means.

Participants of the session will consider measures to improve implementation of legislation to allow trafficked persons the possibility of obtaining compensation for damages suffered, including wages owed to them (MC.DEC 8/07, para 7), as well as measures that allow confiscated assets to be used to compensate victims of trafficking and supplement government funding for programmes that address their needs (MC.DEC 2/03, Annex III.1.5). Participating States are encouraged to reflect upon NRM activities in light of the activities of inter-ministerial bodies, national co-ordinators, NGOs and other relevant national institutions responsible for developing and monitoring the implementation of anti-trafficking policies (MC. Dec. No. 2/03, Annex V.3.6). The session will examine challenges to the effectiveness of national mechanisms and explore ways to strengthen existing frameworks, including through the work of national anti-trafficking co-ordinators, national rapporteurs, or cross-sectoral and multidisciplinary teams (MC. Dec. No. 2/03, Annex V.11.1).

In addition to strengthening co-operation among national anti-trafficking actors, States have recognized that enhanced cross-border co-operation among relevant actors in countries of origin, transit and destination plays a critical role in the return of victims of trafficking and facilitates their reintegration (Porto 2002, OSCE Declaration on Trafficking in Human Beings). Several OSCE Ministerial decisions and declarations include State commitments regarding the process of return of trafficked persons, including at the stages of risk-assessment, preparation, transportation, and post-return. OSCE commitments on return of trafficked persons emphasize the safety of return (MC.DEC 2/03, Annex V.7.1), while the OSCE Action Plan recommends that participating States ensure the effective application of the *non-refoulement* principle. Many participants in the 2012 Human Dimension Seminar stressed the need for States to ensure reintegration and social

inclusion of victims of trafficking upon return as a means to prevent re-trafficking. In cases where return is not appropriate due to humanitarian or security considerations, States have also undertaken to consider adopting legislative or other measures that permit victims of trafficking temporarily or permanently to remain in their territory (Porto 2002).

Questions that could be addressed:

- Which provisions of the OSCE Action Plan to Combat Trafficking in Human Beings remain less implemented than others and deserve increased attention? What are the obstacles for more vigorous extrapolation of its recommendations at the national level?
- What are the best practices experienced by the participating States and resulting in the improvement of co-ordination and increase of successful prosecutions, as well as re-integration and rehabilitation of the victims of THB?
- Are participating States planning to address and implement recommendations put forward by participants in the 2012 Human Dimension Seminar? What assistance and expert support might be required in this regard?
- What are the main challenges in the establishment and development of effective NRMs? How are States monitoring and assessing the effectiveness of NRM? Which indicators are used, and what are the key findings?
- How are participating States monitoring and addressing gaps in identification and protection, including in cases of trafficking for labour exploitation, that lead to further violation of trafficked persons' human rights, including re-trafficking?
- What measures have States put in place to monitor how relevant justice actors – law enforcement, prosecutors and the judiciary – exercise their obligation to ensure that victims of crime, including presumed trafficked persons, are informed about and can exercise their right to effective remedies?
- How do participating States ensure that victims of trafficking have access to legal counseling and representation? 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 effective are the existing OSCE commitments in addressing human rights protection in the return of trafficked persons? How are return procedures monitored by States to ensure protection of established rights?
- How are anti-trafficking measures correlated with (or integrated into) other policy areas, such as labour migration, gender equality, employment, education, social protection of vulnerable groups of population, especially children without parental care, migrant children, and other disadvantaged groups?

Tolerance and non-discrimination I, 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

A functioning and vibrant democratic society requires the full and meaningful participation of all citizens – both women and men. In the 2004 OSCE Action Plan for the Promotion of Gender Equality, participating States recognized that *“equal rights of women and men and the protection of their human rights are essential to peace, sustainable democracy, economic development and therefore to security and stability in the OSCE region.”* Likewise, various Ministerial Council Decisions – namely MCD 7/09 on Women’s Participation in Political and Public Life and MCD 14/05 on Women in Conflict Prevention, Crisis Management, and Post-Conflict Rehabilitation – call attention to the need for sustained efforts among participating States to ensure equal rights for women and men to participate in all spheres of political, economic, social and public life.

When women’s voices are silenced – whether through legal frameworks or through cultural or informal practices – States lose legitimacy, accountability and their effectiveness in representing the interests of all citizens. Participating States have affirmed that *“it is their goal to achieve not only de jure but de facto equality of opportunity between women and men and to promote effective measures to that end”* (Moscow 1991). Yet despite the adoption of legal frameworks to promote gender equality and protect women’s rights, women across the OSCE region continue to face gender-based discrimination in their daily lives. Measures to combat discrimination can include promoting gender balance in political parties, electoral administration, government institutions, legislatures, the judiciary and the security sector, as well as adopting legal or voluntary measures to enhance women’s meaningful political participation.

National mechanisms for the advancement of women serve to promote equal rights and opportunities for women and men as well as to monitor state compliance with national and international gender equality obligations. The 2004 Gender Action Plan recommends that participating States *“establish or strengthen national mechanisms for ensuring gender equality, inter alia by making available the services of an impartial and independent person or body [...] to address gender related discrimination against individual citizens.”* This session will look at good practices in supporting national mechanisms to enhance their capacity to promote gender equality and protect women’s rights.

OSCE commitments emphasize *“the importance of women’s full and equal participation in all phases on conflict prevention, resolution and peacebuilding”* (MCD 14/05), in line with UN Security Council Resolution 1325 on “Women, Peace and Security.” A commitment to women in security also entails an understanding on the part of all members of the security sector

of issues that predominantly affect women before, during and after conflict situations. These include issues such as violence against women, domestic violence and human trafficking. In this session, participants will discuss efforts to integrate a gender perspective into security reform processes, increasingly recruiting and promoting women within the security sector, especially at decision-making levels, and supporting the participation of women in both formal and informal peace processes.

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

In adopting the 2004 OSCE Action Plan for the Promotion of Gender Equality, OSCE participating States acknowledged that they *“bear the primary responsibility and are accountable to their citizens for the implementation of their commitments on equality of rights and equal opportunities for women and men.”* The OSCE Gender Action Plan provides a comprehensive framework to assist participating States in implementing these commitments.

It is important to note that gender equality commitments apply as much to the OSCE as an institution as they do to participating States. This includes an obligation to periodically review and discuss the OSCE's progress in mainstreaming a gender perspective into all its internal structures, policies and programmes. The session will provide an opportunity for participating States and OSCE institutions to reflect on progress in implementation of the 2004 Gender Action Plan, as well as to discuss the need for strengthened efforts to promote the rights of women from marginalized and vulnerable groups, such as Roma and Sinti, national minorities and migrants.

Prevention of violence against women

Violence against women, including domestic violence, continues to be one of the most widespread human rights violations in the OSCE region, despite the adoption of OSCE commitments such as Ministerial Council Decision 15/05 on “Preventing and Combating Violence against Women.” The Decision states that governments and law enforcement agencies of OSCE participating States have a responsibility to prevent, investigate and punish perpetrators, and provide protection to victims, especially among the most marginalized groups. This session will provide an opportunity to share good practices in promoting and implementing OSCE commitments in this sphere.

Questions that could be addressed:

- How are participating States facilitating the participation of women in political processes?
- What progress can be noted in participating States in ensuring equality of rights and opportunities between men and women in practice, as well as in legal frameworks?
- What measures, legal or voluntary, have proven effective in promoting gender equality in political and public life, particularly at decision-making level?

- How can participating States support national mechanisms for the advancement of women, particularly in terms of their capacity to effectively promote gender equality and protect women's rights?
- What efforts have OSCE participating States undertaken to sensitize all members of their security sector to issues that predominantly affect women? What efforts have been taken to recruit, retain and promote women to decision-making positions in the security sector?
- What initiatives have OSCE participating States implemented to ensure the presence of women in both formal and informal peace negotiation, mediation and dialogue facilitation processes?
- How can the OSCE and participating States enhance implementation of the 2004 Gender Action Plan? Should the OSCE participating States consider updating this Action Plan?
- How can OSCE participating States enhance their efforts to prevent violence against women and strengthen protection and support services for victims?

MONDAY, 1 OCTOBER 2012

10 a.m.–1 p.m.

WORKING SESSION 10

Specifically selected topic: Freedom of thought, conscience, religion or belief

Freedom of religion or belief is one of the most central and longstanding of OSCE human dimension commitments. 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). Recent Ministerial Council decisions, MC Decisions 4/03 (Maastricht), 12/04 (Sofia), 10/05 (Ljubljana), 13/06 (Brussels), 10/07 (Madrid), have reiterated the importance of the commitment to freedom of religion or belief, also linking it to the promotion of tolerance and non-discrimination and to raising awareness of religious diversity, including in the area of education. A series of meetings and conferences on issues related to the promotion of respect and understanding have underscored the importance of upholding freedom of religion or belief in the fight against intolerance and discrimination.

Throughout the OSCE region, individuals, religious or belief communities and participating States face a range of issues related to freedom of religion or belief. Many individuals and communities continue to be challenged by restrictions to their rights. Problems encompass infringements of the right to change, adopt and renounce a religion or a belief, as well as limitations to the right to manifest one's religion or belief. The latter category includes disruption or prohibition of worship even in private homes as well as attacks or restrictions on places of worship.

This session will review the implementation of commitments related to freedom of religion or belief undertaken by participating States. In this regard, the OSCE Ministerial Council has encouraged participating States to seek the assistance of ODIHR and its Panel of Experts on Freedom of Religion or Belief (MC Decision 4/03, Maastricht).

Questions that could be addressed:

- What are the main issues or obstacles arising when participating States implement the commitments to ensure and promote freedom of thought, conscience, religion or belief?
- What measures can be undertaken to further support participating States to implement their commitments? How can ODIHR assist participating States in this regard?
- What synergies can be found among the OSCE institutions and field operations, and between the OSCE and other international actors, to promote the implementation of the commitments in the area of freedom of religion or belief?

3–6 p.m.

WORKING SESSION 11

Specifically selected topic: Freedom of thought, conscience, religion or belief (continued)

OSCE participating States have committed themselves to ensure and facilitate the freedom of the individual to profess and practice a religion or belief, alone or in community with others, where necessary through transparent and non-discriminatory laws, regulations, practices and policies (MC Decision 4/03, Maastricht). Participating States have also committed themselves to engage in consultations with religious faiths, institutions and organizations in order to achieve a better understanding of the requirements of religious freedom (Vienna 1989, paragraph 16.5).

MC Decisions 10/05 (Ljubljana) and 13/06 (Brussels) task ODIHR and its Advisory Panel of Experts on Freedom of Religion or Belief to continue supporting participating States and providing expert assistance. ODIHR and its Advisory Panel of Experts on Freedom of Religion or Belief have developed *Guidelines for Review of Legislation Pertaining to Freedom of Religion or Belief* (2004). Upon request from participating States, ODIHR also regularly engages in legislative reviews in the area of freedom of religion or belief and offers training of government officials on international standards in this area.

This session will focus on on the responsibility of States for ensuring respect for the freedom of religion or belief, in particular through the process of developing and implementing relevant laws, regulations, practices and policies. It will also focus specifically on the importance of consultation with civil society, including religious or belief communities, in the process of law-making and in the implementation of measures relevant to the effective exercise of the right to freedom of religion or belief.

Questions that could be addressed:

- What are the main issues arising when developing legislation on freedom of religion or belief?
- What are the main difficulties encountered when implementing relevant legislation?
- How can ODIHR better assist participating States in ensuring their legislation in the area of freedom of religion or belief complies with OSCE commitments and other international standards?
- How can participating States ensure that the law-making process and the development of regulations, practices and policies related to the freedom of religion and belief are transparent and inclusive vis-à-vis relevant civil society actors, including religious or belief communities?
- How can participating States ensure that religious and belief communities as well as other civil society actors are adequately consulted on the implementation of laws, regulations, practices and policies that may affect them?
- How can civil society actors, including religious or belief communities, be encouraged to co-operate with one another in the promotion of the freedom of religion or belief?

TUESDAY, 2 OCTOBER 2012

10 a.m.–1 p.m.

WORKING SESSION 12

Specifically selected topic: Rights of persons belonging to national minorities, including:

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

National Minorities

States are obliged to secure for everyone within their jurisdiction the enjoyment of human rights and freedoms, including minority rights. The OSCE has been at the forefront of the development of international standards on minority rights. Notably, the OSCE adopted one of the most important standard-setting documents on national minorities, The Copenhagen Document (1990).

At the Helsinki Summit in 1992, the High Commissioner on National Minorities (HCNM) was established and tasked with early warning and early action with respect to tensions involving national minorities, subject to qualified limitations. HCNM's approach to national minority issues can broadly be summarized as "integration with respect for diversity". This approach, which excludes on the one hand forced assimilation and on the other hand separation, informs all of the HCNM's work on national minority

issues. While the core of the HCNM Mandate is “early warning” and “early action” in regard to tensions involving national minority issues – hence with an important focus on the security dimension – it is important to stress that reducing tensions and preventing the escalation of conflicts requires a strong focus on the protection and promotion of rights. Furthermore States’ policies should be consistent with non-discrimination standards, including the prevention of hate crimes, hate speech and racism. These policies should promote inter-ethnic tolerance and seek to prevent aggressive nationalism.

The HCNM engages in a full spectrum of rights, ranging from civil and political rights such as freedom of expression and association to more identity-specific rights. Concurrently, the HCNM promotes the adoption and implementation of laws and policies to combat discrimination and to promote effective equality and full participation. Minority rights by their very nature are interlinked and require simultaneous consideration. Failure to consider the rights in an interlinked manner can undermine the democratization and integration of our societies, thus putting at risk peace, stability and prosperity.

Nearly all minority rights are inter-connected, but this interrelationship between rights is particularly cogent with **language rights**. First, languages are markers of ethnic identity and a vehicle for expressing distinct cultures, but also a source of national cohesion. Second, they are the basis for public administration and are relevant in a multitude of institutional efforts, including, but not limited to: education, media, and private and public life. Finally, language rights are an instrument for building political communities. As a result, a number of recommendations issued by the HCNM are important in the discussion regarding language rights, including: The Hague Recommendations Regarding the Education Rights of National Minorities (1996); The Oslo Recommendations Regarding the Linguistic Rights of National Minorities (1998); The Lund Recommendations on the Effective Participation of National Minorities in Public Life (1999); The Guidelines on the Use of Minority Languages in the Broadcast Media, (2003); Recommendations on Policing in Multi-Ethnic Societies (2006); and The Bolzano/Bozen Recommendations on National Minorities in Inter-State Relations (2008). Furthermore, numerous international treaties and commentary outline language rights.

The Copenhagen Document (1990) states that persons belonging to national minorities have the “right to freely use their mother tongue in private as well as in public.” It also underlines the commitment of participating States to “protect the ethnic, cultural, linguistic and religious identity of national minorities on their territory and to create conditions for the promotion of that identity”. Both elements, of rights and responsibilities, are crucial considerations in language policy. Ultimately, an effective language policy is one that concentrates on promoting knowledge of the State Language(s) without limiting opportunities for the use of minority languages.

Disagreements over language issues are often related to interethnic tensions. Majorities fear that too much protection for minority languages could lead to cleavages in society along ethnic or linguistic lines, while minorities fear that strengthening the State language(s) will lead to linguistic assimilation.

However, under effective language policy, multilingualism can be a source of national cohesion.

Any such language policy undertaken must be implemented in both substance and in form. Implementation of language rights policies may be financially demanding. Considering the serious economic crisis today, it is important to emphasize that language rights remain as relevant and as pressing under these circumstances as much as they are under more favorable economic conditions.

The HCNM's experience is that in promoting the acquisition and use of the State language(s), positive means such as offering easily accessible language courses or special measures in the education sphere are more effective than negative means aimed at restricting the use of minority languages. The latter kind of measures may also raise concern regarding compliance with the international minority rights standards. Furthermore, policies to promote the State language(s) should recognize that both persons belonging to a national minority as well as the majority share an interest in promoting integration of society through the acquisition of sufficient knowledge of the State language(s). This knowledge improves not only communication and interaction between all groups in society, but it also promotes economic development and civic participation. At the same time, States should, relying upon The Copenhagen Document (1990), adopt and implement effective legislation and policies to protect the right to use minority languages, including, where persons belonging to a national minority are present traditionally or in sufficient numbers and where the desire for it has been expressed – the right to use their language in official communications with authorities, in public documents, public services and local government. Similar provisions should be enacted in relation to names, signs, and the use of minority languages in the media.

Participating States need to adopt a legal framework and implementing policies that adequately balance strengthening of the State language(s) and the protection and promotion of minority languages. There is no universal recipe for the appropriate approach and to some extent the right balance will depend on the factual, historical, political and social circumstances. There are many ways to accommodate the use of various languages within the same State, including in public administration and the courts. In all cases, however, it is crucial to recognize that language policy is not a zero-sum game. Promoting one language by restricting or repressing another is probably ineffective, and also counter-productive, as it may lead to resistance to learn the other language and possibly even resentment.

In consideration of the inter-connected and inter-related nature of minority rights, this working session aims to explore the ways in which language policies can promote inclusion and participation of all members of society while recognizing and accommodating differences and protecting the rights of persons belonging to national minorities.

Questions that could be addressed:

- What steps should the OSCE participating States take to implement the OSCE commitments concerning minority language rights?
- How can OSCE participating States ensure that their policies strike an adequate balance between the promotion of the State language(s) and the protection and promotion of minority languages?
- What mechanisms exist to consult minorities on language issues?
- How do the OSCE participating States assist national minorities that do not speak the State language(s), but express their desire to learn?
- If there is more than one State Language, are there provisions to learn the other State language(s)? Are there provisions that enable potential employees to learn the other State language(s)?

3 p.m.–6 p.m.
13

WORKING SESSION

Specifically selected topic: Rights of persons belonging to national minorities (continued):

In addition to language, **education** is an important condition for the enjoyment of other rights. The right to education is part of customary international law and is recognized in various international instruments, including United Nations documents, regional treaties and some participating States' domestic legislation. Education as it relates to minority rights is detailed in The Hague Recommendations Regarding the Education Rights of National Minorities (1996), but education rights are also, much like language rights, interrelated with various other human rights.

In addition to the legal obligations to consider education as a right, education can also: foster inter-ethnic communication; assist in deconstruction of stereotypes; and increase understanding between different cultural groups. Education also serves as an important requisite for full and equal participation in the society. The resulting challenge is to organize the education system in a manner that encourages respect for cultural diversity and plurality of views, while concurrently developing and maintaining minority groups' languages, cultures and identities.

Ultimately, educational policies should endorse comprehensive and pro-active approaches to ensure equal opportunities for both minorities and majorities. Fluency in the Official Language(s) and minority languages are often a necessity for public participation, as described in The Lund Recommendations on the Effective Participation of National Minorities in Public Life (1999).

In order to achieve such opportunities, national minorities must have access to educational opportunities as do the majorities. Teaching in minority languages or of minority languages is essential for ensuring access to education for minorities. Although there is no right to mother tongue education at the tertiary level, it may be necessary to consider potential policies with respect to tertiary level education. The respect for parental choice, consultations with minorities, and introduction of special enabling mechanisms should be important factors in designing such policies.

Language of teaching (and/or teaching of the mother tongue) remains contentious. In paragraph 34 of The Copenhagen Document (1990): "The participating States will endeavor to ensure that persons belonging to national minorities, notwithstanding the need to learn the Official Language(s) of the State concerned, have adequate opportunities for instruction of their mother tongue or in their mother tongue [...]" In addition, The Hague Recommendations Regarding the Education Rights of National Minorities (1996) articulate that rights of minorities must be balanced by the responsibility to integrate and participate in the wider national society. Integration and participation requires a sound knowledge of the society and the State language(s), as well as the promotion by the State of tolerance and pluralism. The ability to use language(s) impacts the access of minorities to education, and, ultimately, determines their place in the society in general.

Questions that could be addressed:

- How is access of minorities to education safeguarded in national educational systems? What are the obstacles to equal access to education for minorities? How do the institutions combat discrimination and promote diversity?
- What mechanisms exist to consult with minorities on education issues?
- What are some of the models of multilingual education?
- What resources and capacities are allocated for training of teachers in minority schools? Do they match such allocations in majority schools?
- How can schools be assisted to create inclusive environments (symbols, school names, etc) where all pupils feel welcome irrespective of their ethnic origin?

WEDNESDAY, 3 OCTOBER 2012

10 a.m.–1 p.m.

WORKING SESSION 14

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

- Prevention and responses to hate crimes in the OSCE area;
- Combating racism, xenophobia and discrimination, also focusing on intolerance and discrimination against Christians and members of other religions;
- Combating anti-Semitism;
- Combating intolerance and discrimination against Muslims.

Participating States have repeatedly condemned intolerance, discrimination and hate crimes and pledged to take action against them. Today, there is a broad range of commitments to combat intolerance and discrimination and to promote mutual respect and understanding, including to prevent and to 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.

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 co-operating 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."² 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 two SHDMs in 2011 and 2012. Participants in these events highlighted the acute need to develop comprehensive measures to combat intolerance and discrimination especially due to the economic crisis and underlined that all actors need to co-operate and build networks in order to combat intolerance and discrimination.

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 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 participating States face in preventing and responding to violent manifestations of prejudice and intolerance? What initiatives have been designed to meet these challenges, and how can ODIHR's tools further support OSCE participating States in their efforts?

² OSCE Ministerial Council Decision No. 4/03, Maastricht, 2 December 2003

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

3–6 p.m.

WORKING SESSION 15

Democratic institutions, including:

- Democratic elections.

Democratic elections are recognized as an essential element in the establishment and functioning of a stable and pluralistic democracy. The OSCE participating States have agreed upon a wide range of commitments aimed at safeguarding the fundamental principle that the will of the people, freely expressed in periodic and genuine elections, is the basis of authority of government. These commitments are set forth in the OSCE 1990 Copenhagen Document and a number of other OSCE documents. In the 1994 Budapest Summit Declaration, OSCE participating States recognized that elections are not just a one day event and that developments before and after elections are crucial components indicating how democratic the overall electoral process is.

In recognition of the importance of promoting the establishment of democratic institutions and the conduct of genuine and democratic elections, ODIHR was vested with a mandate to assist participating States in the implementation of their election-related commitments through comprehensive election observation. The recommendations provided by ODIHR with regard to observed electoral processes across the OSCE region constitute a professional and transparent basis for participating States' further efforts at improving their electoral processes.

The importance and utility of election observation, which is encompassed in paragraph 8 of the OSCE 1990 Copenhagen Document, was also underscored by the some 40 organizations that endorsed the Declaration of Principles for International Election Observation (DoP) at the United Nations in 2005. Subsequently, a similar declaration of Global Principles for Non-Partisan Election Observation and Monitoring by Citizen Organizations has been endorsed by 180 domestic observation organizations worldwide, following its official signing, witnessed by the DoP community at the United Nations in 2012. Both highlight the value of objective and impartial review of an electoral process, by national and international observers alike.

To ensure that ODIHR's recommendations are acted upon, the participating States have repeatedly underscored their commitment to follow-up. While follow-up is ultimately the responsibility of each participating State and its success is contingent upon the presence of political will and genuine interest, ODIHR has been making an increased effort to engage with participating States between elections in a follow-up process that is conducted at their request. Undertaking visits to present and discuss final reports with all relevant stakeholders shortly after elections has evolved into a regular

practice. Based on such visits, further need in terms of the implementation of past recommendations and ODIHR's potential role in assisting is established. Over the past year, ODIHR has assisted a number of participating States as part of the follow up process by contributing, upon request, to the legislative review processes, expert meetings and exchanges on electoral issues. Proactive requests for assistance that ODIHR continues to receive underscore the need for and the recognition of the utility of such assistance, and indicate the interest by the participating States in further broadening the spectrum of co-operation on follow-up.

While discharging its mandate, ODIHR encounters numerous examples of commendable electoral practices. It also continues to note that a number of issues still pose challenges for the OSCE participating States. The SHDM that took place on 12-13 July in Vienna highlighted the need for greater efforts and continuing commitment on the part of States across the OSCE region to ensure better implementation of election-related commitments. The discussions in the framework of the SHDM also identified a number of areas where improved performance on the part of the OSCE participating States is needed. These included, among others, the need to:

- Ensure equality of access to the media;
- Eliminate undue restrictions on suffrage rights in promotion of universal and equal suffrage;
- Provide equal campaign conditions to enable contestants to compete on a level playing field;
- Grant access to domestic and international observers, including through introduction of corresponding provisions into the legal framework;
- Develop campaign finance regulations with functional oversight mechanisms;
- Develop legal redress mechanisms that provide timely and effective remedy.

Participants of the SHDM also pointed to the need to further refine ODIHR's election observation methodology in order to better capture new and evolving themes and to provide better support to OSCE participating States. ODIHR has reiterated its commitment to continue developing the methodology. The newly published handbooks on monitoring of media and of voter registration presented during the SHDM exemplify concrete efforts undertaken by ODIHR in this regard. This HDIM will provide an opportunity to follow up on the discussions held in the framework of the SHDM and to review the progress in the implementation of commitments on the part of participating States over the course of last year.

Questions that could be addressed:

- How are OSCE participating States meeting their commitments to conduct democratic elections?
- What are the commitments and areas that constitute the greatest challenges for OSCE participating States? What actions can be undertaken to address these challenges?

- How could ODIHR better assist participating States in meeting their commitments through structured follow up? What are the areas and avenues for possible co-operation?
- What are the new evolving themes and aspects of an electoral process that have a bearing on electoral rights and would benefit from international observation? How could such aspects be most effectively assessed?
- How can participating States ensure better respect for universal and equal suffrage rights;
- How are participating States fulfilling their responsibilities to ensure respect for rights of election observers, including international and domestic?
- How are participating States addressing challenges related to ensuring equal access to the media?
- How can ODIHR, together with participating States and other bodies, continue to constructively exchange views on election-related activities?
- How can follow-up activities and technical assistance provided by ODIHR be enhanced in order to more effectively assist the participating States?

THURSDAY, 4 OCTOBER 2012

10 a.m.–1 p.m.

WORKING SESSION 16

Democratic institutions (continued), including:

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

Democracy at the national, regional and local levels

The OSCE participating States have agreed upon wide-ranging commitments to foster democratic institutions, in conjunction with the respect and protection of fundamental freedoms, human rights and the rule of law (Copenhagen, 1990).

The participating States also noted the importance of considering local government and decentralization in the strengthening of democracy while acknowledging the diversity of constitutional systems across the OSCE region (Helsinki, 1992). Bringing governance closer to the citizen – at the lowest possible level, through decentralization and “subsidiarity” – has been recognized as a key element in fostering democracy. An increased political participation of under-represented groups (women, youth, and minorities) in political life also leads to a more inclusive and democratic society.

Several OSCE commitments recognize that democracy at all levels of government is predicated on political pluralism and multi-party democracy. Political parties, as collective platforms for the exercise of individuals’ fundamental rights to association and expression, act as “bridges” between

citizens and the institutions of the State. The OSCE participating States committed to *“respect the right of individuals and groups to establish, in full freedom, their own political parties or other political organizations and provide such political parties and organizations with the necessary legal guarantees to enable them to compete with each other on a basis of equal treatment before the law and by the authorities”* (Copenhagen, 1990).

One of the OSCE’s objectives is to support participating States in fully institutionalizing multi-party systems and in preserving this system regardless of which party is in power. Well-designed and properly enforced laws and political party regulations can help to create an environment in which parties can most effectively perform their essential democratic functions. To this aim, ODIHR together with the Venice Commission of the Council of Europe developed and published the OSCE ODIHR-Venice Commission [Guidelines on Political Party Regulation](#) that provide guidance for the drafting and implementation of legislation and regulations on political parties.

Across the OSCE region, abuse of administrative resources for partisan purposes in favor of incumbents continues to be a problem. This issue leads to an uneven playing field between political contestants. It also adds to the perception of a lack of separation between the State and political parties. The OSCE participating States recognized the importance of this separation in Paragraph 5.4 of the 1990 Copenhagen Document.

The OSCE institutions and field operations have been assisting participating States in various ways to strengthen democracy at all levels of government. In particular, they have supported parliaments to function in compliance with principles of democratic pluralism, transparency, and democratic and accountable governance. Professional and ethical standards for parliamentarians play a particularly important role in strengthening democratic governance, public integrity and the rule of law.

This session will provide an opportunity for participating States to take stock of progress in the implementation of OSCE commitments on democratic institutions, democratic governance and political pluralism.

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 ODIHR commitments relating to democratic institutions?
- How can legislation and regulations on political parties enhance political pluralism and participation?
- How can the OSCE – particularly ODIHR, other institutions and field operations – support participating States in ensuring greater political pluralism at all levels of government?
- How are participating States ensuring participation of women and inclusion of minorities, at all levels of democratic government?
- 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?

- How can participating States foster and strengthen youth and women's participation in public affairs?
- To what extent do stereotypes contribute to prevent women and youth participation in politics?
- How can think tanks and civil society support democratic processes and lend a voice to under-represented constituencies?
- What role can women play in fostering democratization?

Citizenship and political rights

In the OSCE participating States, key political rights, guaranteeing participation in a country's political system through a variety of means are often directly linked to citizenship/nationality. While this link is recognized – the Copenhagen Document refers to “*citizens*” taking “*part in the governing of their country*” -, other OSCE commitments note the need to adopt appropriate measures to enable migrant workers to participate in participating States' public life (Moscow, 1991 and Helsinki, 1992) and to combat discrimination against migrant workers, asylum-seekers and refugees (Maastricht, 2003). Accordingly, non-citizen residents should not be denied all political and civic rights in the country where they lawfully reside.

Under international law, the link between citizenship and political rights 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” rather than based on citizenship. The 1992 Council of Europe (CoE) Convention on the Participation of Foreigners in Public Life at Local Level sets forth standards for foreign residents' active participation in the life of the local community and their integration therein.

Across the OSCE region, participating States have developed general integration programmes focused on family reunion and long-term residence to non-citizens. However, access to political rights for non-citizens legally residing in a country is often more circumscribed. Likewise, policies to promote non-citizens' participation in conventional public life are underdeveloped and few participating States have ratified the above-mentioned CoE Convention. The potential for non-citizens to become active members of their societies can thus be further explored.

This session will provide an opportunity to discuss the link between citizenship and political rights, as well as remaining obstacles to the exercise of these rights by non-citizens lawfully residing in OSCE participating States.

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 the enjoyment of specific political rights?
- How can participating States better ensure that their citizens 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 of resident non-citizens in civic and political life (in particular at the local or regional level) and how could these practices be effectively shared among the OSCE participating States?
- 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 are participating States facilitating access to positions of responsibility and representation for non-citizens?

3–6 p.m.

WORKING SESSION 17

Discussion of human dimension activities (with special emphasis on project work), including:

- Presentation of activities of the ODIHR and other OSCE institutions and field operations to implement priorities and tasks contained in relevant OSCE decisions and other documents.

The OSCE has played an active role in strengthening democracy and human rights practices, as well as in promoting reinforced compliance with human dimension commitments by OSCE participating States. An important element in this accomplishment has been the development and implementation of targeted activities and projects, which are part of a longer-term, cross-cutting strategy. These human dimension activities have grown in scope and duration to include specific assistance efforts, programmes, and projects (e.g., legislative and technical assistance, training, and workshops for both government officials and members of civil society, human rights education). The OSCE also plays an important role by drawing attention to a specific issue and creating a space and a forum for focused dialogue, which can be followed up by concrete assistance.

The OSCE and its institutions and field operations have been able to identify areas in which they are well placed to facilitate change and reform. The OSCE works with individual States and in sub-regional groupings, as well as in consultation and coordination with other international organizations. ODIHR's mandate covers all participating States. It can therefore provide a channel for exchange of experience and best practices from one region of the OSCE to another, and be effective in supporting and complementing the work of OSCE field operations.

This session will explore ODIHR's role as a facilitator and its offer of targeted programmes of assistance and expertise across the OSCE region. Field

operations and other OSCE institutions/structures may present lessons learned from their activities and how they can be used as a catalyst for discussion and co-operation between and within participating States, including civil society. Participating States, international organizations and civil society, including NGOs, are invited to comment on the presentations and to present their own project priorities for reciprocal comment. The aim is to identify how participating States can derive most benefit from the OSCE's assistance in implementing the priorities and tasks contained in OSCE decisions and other documents.

Questions that could be addressed:

- What are successful examples of OSCE interventions, programmes, and projects from past years? Why were these successful?
- In which areas are the OSCE institutions and field operations best placed to facilitate change by creating a forum for dialogue?
- How can OSCE's institutions as well as its Parliamentary Assembly facilitate the sharing of expertise and experience from one region or participating State of the OSCE to another?
- How can the interplay between OSCE institutions' and field operations' mandates and programming be used most effectively?
- What are examples of successful human dimension activities and programmes conducted by other organizations (international, national, local) from which the OSCE could learn?
- How can the OSCE be most effective in assisting participating States in implementing their human dimension commitments?

FRIDAY, 5 OCTOBER 2012

10 a.m.–1 p.m.

**CLOSING REINFORCED PLENARY
SESSION**

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

Based on Permanent Council Decision No. 476 on the Modalities for OSCE Meetings on Human Dimension Issues, the HDIM will be concluded by a Plenary Session that is reinforced by the participation of Human Rights Directors or similar senior officials responsible for human dimension matters in the Foreign Ministries of the participating States, as well as OSCE ambassadors and the Heads of the OSCE institutions.

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

The Reinforced Closing Plenary Session will look at how direction can be given with regard to the effective follow-up of the discussions in the different working sessions and the recommendations that came out of these discussions

in light of further discussions in the Permanent Council on the results of the HDIM as well as with regard to the preparations of the next OSCE Ministerial Council Meeting in Dublin in December 2012.

- 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