



DEMOCRACY AND HUMAN RIGHTS ASSISTANCE

Rule of Law Programme (1300435)

**FUNDED THROUGH
EXTRABUDGETARY CONTRIBUTIONS**

Warsaw, September 2012

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Current budget: EUR 2,085,800¹

1. Background

According to the 1990 Copenhagen Document OSCE participating States consider that the rule of law does not merely mean a formal legality, but justice based on the recognition and full acceptance of the supreme value of the human personality, guaranteed by institutions providing a framework for its fullest expression. This implies that ODIHR's work to promote the rule of law in the OSCE area must go beyond legislation and include institutional assistance and engagement with a variety of actors to encourage participating States to fully implement their commitments. Challenges remain for participating States in improving their compliance with rule of law commitments in the OSCE area. These relate particularly to judicial independence, the proper administration of justice and fair trial guarantees.

2. Approach

The programme will assist participating States in developing legislation and policies to meet their OSCE human dimension commitments on the rule of law, and support the legal community and other stakeholders in facilitating implementation of these commitments. ODIHR's expertise and accumulated knowledge of best practices across the OSCE will be used to increase dialogue and co-operation among state authorities, legal communities, and civil society actors on these topics. It will lead to greater exchange of expertise and best practices among participating States and enhance the assistance provided by OSCE field operations.

2.1 *Planned activities for 2012-2013 (funds permitting)*

Judicial independence

ODIHR will organize roundtables and other forums to promote dialogue on the *Kyiv Recommendations on Judicial Independence in Eastern Europe, South Caucasus and Central Asia* between governments, judiciaries and judicial reform stakeholders, including parliamentarians and civil society. These discussions aim to translate the policy suggestions contained in the *Kyiv Recommendations* into country-specific action points relevant for local, tailor-made reforms. ODIHR will also initiate a consultative process between participating States and independent experts to develop the *Kyiv Recommendations* further, encouraging their use in the judicial reform context. For this purpose, ODIHR will hold a regional roundtable in the South Caucasus in 2013.

War Crimes Justice

ODIHR will assist participating States in South-East Europe to further strengthen the capacity of their justice systems to process war crimes cases, building on progress achieved within the 2010-2012 EU funded War Crimes Justice Project.² In close co-ordination and co-operation with the OSCE field operations and partners such as the ICTY, ODIHR will facilitate exchanges, joint initiatives and professional networking across the region. ODIHR activities will target judges and prosecutors and other professionals in the justice system such as defense lawyers, witness support providers and investigators.

¹ For the period 1 January 2008 to 31 December 2013.

² Please see <http://www.osce.org/odihr/74803> for more details.

Fair trials and trial monitoring

ODIHR will continue to support field operations, legal practitioners and civil society in their efforts to monitor trials and related activities as a key diagnostic tool in achieving better compliance with fair trial standards. Together with OSCE field operations, the OSCE's institutional memory will be further developed by a repository of trial monitoring documentation. This will enable civil society and field operations to monitor trials more responsively, reliably, efficiently and effectively. ODIHR will continue working with authorities to implement specific recommendations of its trial monitoring reports, e.g. in reforming the pre-trial stages of criminal proceedings. ODIHR will continue building the capacity of NGOs to monitor trials based on tools such as the 2012 *Legal Digest of International Fair Trial Rights* and *Trial Monitoring: A Reference Manual for Practitioners, as revised in 2012*.

Criminal justice reform

ODIHR will maintain its offer of assistance on criminal justice with a focus on Central Asia and South Caucasus. Activities will build on earlier events including the annual Expert Forum on Criminal Justice for Central Asia (2008-2012), and include follow-up events on selected topics to promote institutional change and increased dialogue with the expert community in specialized areas. ODIHR may also engage on issues that directly affect the administration of justice including the legal profession and prosecutorial reform.

Administrative justice reform

ODIHR will continue promoting discussion on specific areas of administrative justice: electoral dispute resolution and the use of administrative and judicial remedies as an instrument for individuals to claim respect of their rights by the public administration.

2.2 *Indicators of achievement (examples)*

- Tools/reports prepared by ODIHR provide the basis for concrete justice reform efforts in participating States;
- Participating States and OSCE field operations request and obtain ODIHR's assistance in pursuing criminal and administrative justice reforms;
- The legal community maintains dialogue with participating States about these reforms.

2.3 *Strategy/methodology*

ODIHR relies on its observations and information-gathering to identify gaps and challenges most suitably addressed within ODIHR's specific mandate. This is also instrumental in identifying whether institutional reforms on the rule of law agenda have been successful. ODIHR's mandate allows it to pass on the combined experience of participating States to those which are embarking on reform in a particular area. ODIHR employs tools: meetings, conferences, trial monitoring, expert review and policy recommendations; and works with a range of partners: governments, international organizations, legal communities and other civil society actors engaged in justice reform. Wherever feasible, ODIHR works closely with OSCE field operations.

2.4 *Assumptions and risks*

The primary assumption is that political will and a co-operative approach exist among key stakeholders in governments, legal and judicial sectors and civil society to work with ODIHR on

this programme. To consolidate ongoing reform efforts, ODIHR prioritizes work on those topics and in those participating States where a political window of opportunity is currently open.

2.5 *Quality factors*

ODIHR follows a regional approach, thereby complementing the work of OSCE field operations. Lessons learned and best practices can be fed back to field operations and integrated into their strategic planning. Activities are planned and implemented with the relevant stakeholder(s) in order to achieve full buy-in and ownership. Larger regional projects are planned together with other stakeholders active in the relevant domains. This avoids duplication and ensures the greatest possible impact in the national context.